Signals NEWSLETTER

NORTH
SERVICE, STRENGTH, QUALITY

Tony Baker
Head of Loss Prevention

Welcome...

to the October issue of *Signals* which explores topical issues, provides information relating to loss prevention and examines the implications and consequences for ship operators and seafarers.

Issue 89: October 2012

LOSS PREVENTION NEWSLETTER
FOR NORTH'S MEMBERS

IN THIS ISSUE

A wide variety of issues are addressed in this issue of *Signals*. The regular series of advice to seafarers about health and fitness continues by looking at identifying and dealing with mental health problems on board. Another aspect of crew health is the new First Call service for North's Members visiting ports in the USA. The aim is to ensure seafarers on entered ships receive excellent medical attention as quickly and cost effectively as possible.

A consequence of the piracy situation in the wider Indian Ocean is discussed, whereby a growing number of vessels are navigating inside the congested coastal waters of India to avoid the high risk piracy area with potentially fatal consequences for Indian fishing boat crews.

A number of legal issues are examined, including the factors to consider when Members are faced with early redelivery of a ship under a charterparty. A more unusual aspect of passenger ships is discussed with an article about offences taking place on board.

Issues related to the safe carriage of bulk cargo are once again highlighted, including ensuring that the correct type of gas detector is provided on board to monitor bulk cargoes that deplete oxygen. The steps to be taken when presented with a bulk cargo not listed in the International Maritime Solid Bulk Cargoes (IMSBC) Code, or when asked to carry cargo under a different provision from the listed code requirements, are also discussed.

CONTAINER STOWAGE SUPPLEMENT

Loss or damage to containers as a result of poor stowage is a particular risk for container ships, particularly on ships with higher levels of stability.

To explain the issues and provide guidance, North has published a supplement for container ships and their owners and operators, written by Jeroen de Haas of BMT De Beer, with this issue of *Signals*.

RECEIVE SIGNALS IN PRINTED FORMAT

This issue of *Signals* is the first to be distributed electronically to Members' offices and staff rather than by post in printed format.

However, Members and their staff who prefer to receive hard-copy versions of *Signals*, loss prevention guides, 'Hot Spots', CDs and other loss prevention publications will of course be able to do so. Simply choose your option, along with updated contact details if necessary, using the choices form on the Club's website: ***www.nepia.com/publications/choices***

Hard-copy packs of all loss prevention publications will continue to be distributed to entered vessels via Members' offices.

MANAGING LIFTING EQUIPMENT

Alvin Forster
Risk Management Executive

Making a lift either on deck or in the engine room is a common and routine shipboard practice. When considering the equipment used for lifting, attention tends to be on cranes and derricks as their failure can lead to high profile incidents. However, lifting appliances are only as strong as their weakest link – so it is equally important to consider the condition and suitability of loose gear such as slings and shackles.

The consequences of a poorly executed lift, or a lift using defective or inappropriate equipment, can be catastrophic and in the worst case fatal. Therefore one of the most important aspects of a lifting operation is assessing the risk beforehand.

The following suggestions are based on industry standard procedures for carrying out lifts. They are relevant to common maritime practices, whether it is pulling a piston from an engine or loading provisions from the quayside.

Recommended Procedures

Before attempting the lift, assess the following factors:

- Is the load stable?
- Are there dedicated lifting points on the load?
- What is the weight?
- Where is its centre of gravity?
- Is the lifting equipment suitable for the lift (see next section)?
- Are the people carrying out the lift suitably trained and competent?
- Is the full travel route clear and free of obstructions?
- Are personnel working in the vicinity safe?
- Is the landing area fully prepared?

When the previous factors have been properly assessed, the lift can be carried out in the following sequence:

- Make a trial lift.
- Lift and travel.
- Make a trial landing.
- Land.
- Clear up – properly stow the lifting equipment back in its designated storage area and secure the load.

Suitability of Equipment

When assessing the condition and suitability of lifting equipment, the following factors should be considered:

- Ensure the equipment is considered safe to use, is properly listed on the ship's register or database and that annual thorough-inspection dates are not overdue.
- Carry out a visual inspection of each piece of lifting equipment prior to each use (see next section).
- Ensure the safe working load for every piece of lifting equipment is suitable for the proposed lift.
- Ensure all slings being used in the lift are of the same type. For example, do not mix web slings, wire strops and chains as they will have different extension characteristics when under tension.
- Ensure proper and tested lifting points are used – do not loop around ship's existing pipes or brackets.
- The safe working load of the slings may be affected by their angle and mode.
- The slings must be protected by packing over sharp corners of the load.

Visual Inspection

The points to look out for during a visual inspection of some of the more commonly used lifting components are as follows. In all cases, ensure that markings such as the safe working load (SWL) are clearly legible.

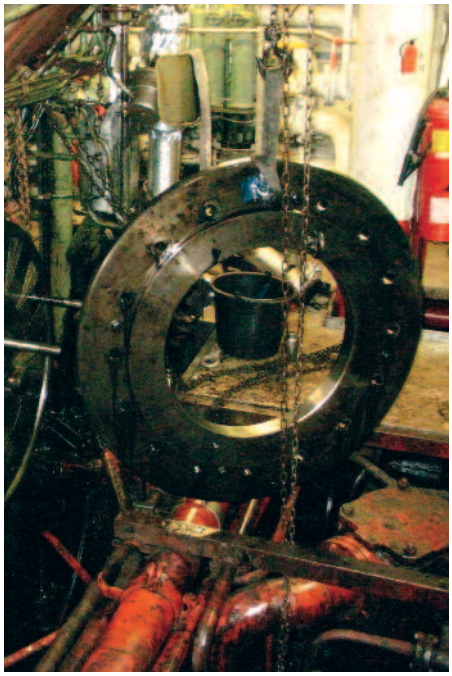
- **Slings/wires/chains** – check for the unwanted presence of chafing, cuts, chemical attack, loose stitching, distortion, kinks and corrosion.
- **Blocks and hooks** – ensure the safety catch is present on hooks as this prevents the load becoming unhooked in the event of an excessive angle or shock loading. Check for impact damage and deformation of housings, chains and hooks.
- **Gantries and runways** – ensure there is no distortion and that end-stops are fitted. Check there are no bolts missing and they are free from cracking.
- **Shackles** – check there is no distortion or nicks or gouges and that the correct pin is being used. Ensure threads are in good condition.
- **Eyebolts** – as well as checking eyebolts are free from deformation and gouging, ensure the undersides of collars are flat and the shanks are not bent or threads damaged in the piece of equipment being lifted.
- **Lifting points** – if welded pad eyes are being used, ensure they are certified lifting points and are free from cracking and deformation.

Equipment Register

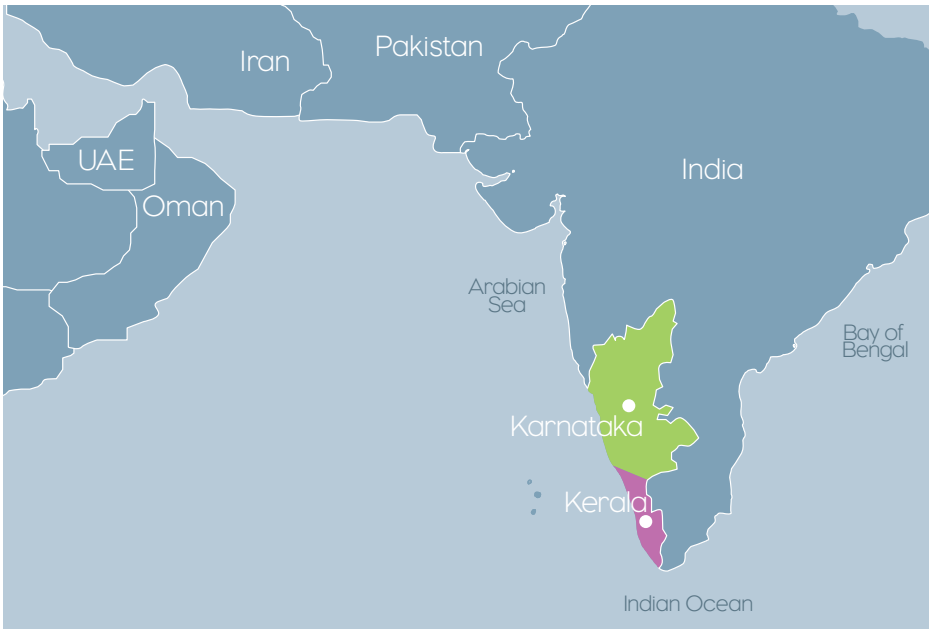
The failure of any lifting equipment can lead to the uncontrolled descent of a load. If there is any doubt to the condition of an item of equipment, never return it to the ship's store where someone else could use it. A quarantine area should be designated for damaged equipment and the ship's lifting equipment register should be updated accordingly.

The implementation and use of an on board lifting equipment management system will help to maintain a safe stock of equipment. This system may include a register or database which lists all items of lifting equipment and loose gear and includes any identification numbers, SWL, certificate numbers, details of last annual thorough inspection and last load test.

The use of a colour coding system, by which crew can readily identify if a piece of equipment has been recently tested or inspected, is encouraged.



LOOKING OUT FOR INDIAN FISHING BOATS



The extension of the 'high risk area' for piracy from the Gulf of Aden to the wider Indian Ocean reflected the increasing reach of Somali-based pirates. Tragically, this has led to fatal consequences for innocent Indian fishing boat crews.

The wider risk of pirate attacks was acknowledged by maritime insurers in December 2010, when the International Union of Marine Insurance's Joint War Council extended the Indian Ocean war risk premium area to include waters up to 12 nautical miles from adjoining territories, including India's west coast.

Collision Risk

In an attempt to avoid transiting the high risk area, a growing number of vessels are navigating inside the coastal waters of India, an expanse of water already heavily congested with more than 300,000 fishing vessels.

Waters adjacent to Kerala and Karnataka are known to be particularly busy after the southwest monsoon, with boats operating up to 50 nautical miles offshore. As a result there has been an increase in the number of near-misses between transiting merchant vessels and local fishing boats.

In March this year, three fishermen lost their lives during a collision with a merchant ship transiting India's coastal waters.

Mistaken Identity

The problem can be compounded by local fishermen, who are known to sail towards vessels that approach too close to their nets in an attempt to attract attention and avoid damage to the nets.

This protective action has led to a number of mistaken identity situations, when crew members of transiting vessels wrongly identify fishing boats as pirate skiffs preparing to attack the ship.

Andrew Glen
Manager

In one recent incident, a merchant vessel fired on and killed two fishermen wrongly identified as pirates by armed guards on board.

New Guidance

As a result of the incidents, the Indian Director General of Shipping has issued Merchant Shipping Notice No 7 of 2012 Navigation off the Indian Coast – transgressing of fishing nets – mistaking fishing boats with pirate skiffs.

The notice advises that it is common practice for fishing vessels to turn towards merchant vessels which are approaching their nets. All merchant vessels are advised to navigate with extreme caution when transiting within 50 nautical miles of the Indian coast where the fishing vessels operate.

The guidance contained in International Maritime Organization circular MSC.1/Circ.1334 – Guidance to shipowners and ship operators, shipmasters and crews on preventing and suppressing acts of piracy and armed robbery against ships – should also be followed.

Any sightings of suspicious craft near India should be reported to the Indian Coast Guard which, along with the Indian Navy, regularly patrol the 200 nautical mile Indian Exclusive Economic Zone.

CHEAP BUNKERS IN RUSSIA

Bunker prices in Russia have been very competitive for several years. As such vessels passing Russian ports – particularly those in the Far East and Black Sea – have often been diverted by charterers or owners to load fuel oil and take advantage of the competitive rates.

Unfortunately from 1 January 2011, Russian customs authorities have imposed a significant tax on bunker transactions involving vessels that were only transiting. The tax does not apply to vessels calling for the purposes of loading and discharging cargo – such vessels can still take advantage of the competitive rates for fuel oil.

It is understood that vessels calling at Russian ports for bunkers may also receive some supplies which are being categorised as cargo so that the tax will not then be applicable. However, there are doubts as to whether taking supplies in this manner would be sufficient under local law to mean that the tax is not properly payable.

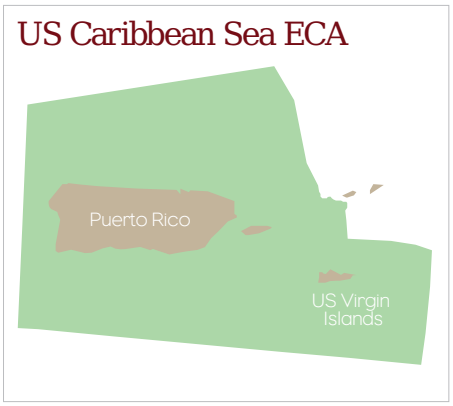
There is a danger that this practice may in fact be unlawful if there is a subterfuge involved to conceal the purpose of the call. If the practice is unlawful then any instruction in this regard given by the charterers will itself be unlawful and one which Members should not follow. Members should thus be fully aware of the risks of complying with such an instruction. If such an instruction is received Members are advised to contact the Club.

CARIBBEAN SEA ECA

The US Caribbean Sea Emission Control Area (ECA) is due to come into force on 1 January 2013. However, due to an exemption clause in the provisions of Annex VI of the International Convention for the Prevention of Pollution from Ships (MARPOL), the requirements for sulphur oxides (SOx) and particulate matter (PM) will not be enforced for the first 12 months.

In effect, vessels will not be required to comply with the SOx and PM regulations until 1 January 2014. In addition, the more stringent Annex VI 'Tier III' nitrogen oxides (NOx) emission limit requirements, which are for ships operating in ECAs with engines installed on or after 1 January 2016, will not enter into force until that date.

Full details of the US Caribbean Sea ECA are provided in IMO Resolution MEPC.202(62) available on its website: ***www.imo.org/blast/blastDataHelper.asp?data_id=30761&filename=202(62).pdf***



LOOKING AFTER MENTAL HEALTH

North's series of articles about crew health and fitness have so far looked at measuring fitness levels, strengthening core muscles to try to avoid back problems, exercising to avoid obesity, and healthy eating. This article will look at the vitally important subject of mental health.

Mental health problems, which can be something of a taboo topic among 'tough' seafarers, may occur for many reasons. The lifestyle of modern seafarers means they are potentially subject to many forms of mental stress.

Causes and Risks

Being away from home, working long hours, having little opportunity for time away from the ship due to security restrictions, remoteness of ports or fast turnaround, the feeling of isolation that can occur on board due to being part of a multinational crew or through lack of opportunities for socialising – these are just some of the factors that can affect the mental health of seafarers.

Mental health problems are important not only to individual seafarers, their families and shipmates but also to the organisations for which they work. Mental health problems can cost employers in terms of reduced performance by the affected individuals as well as introduce unnecessary risks to vessels, other crew members and to the individuals themselves.

Spotting the Signs

The early identification of potential mental health problems on board is vital. Quite often the first sign of a problem may be poor performance in the job and, where a seafarer's performance takes a noticeable dip, there may be an underlying problem that could also give rise to mental health issues.

Changes in mood, people becoming withdrawn, minor physical ailments, sleep problems and disruptive behaviour are all signs that may indicate problems. When the signs are picked up the problems can be dealt with in the early stages and more serious problems will not develop.

Avoiding Problems

Perhaps the best ways of avoiding serious problems developing are:

- To encourage awareness of mental health issues among seafarers at safety meetings and on other appropriate occasions.
- To encourage communication between crew members.
- To enhance the social aspect of life onboard ships.

Having a crew that is close-knit and of high morale helps to keep mental health problems at bay. It means that problems are more likely to be spotted early if they do occur, thus helping to maintain the smooth and cost efficient running of the vessel.

Remember that if someone seems out of sorts, there is usually a reason for it.

The International Committee on Seafarers' Welfare has produced a useful publication about care of seafarer's mental health entitled Guidelines for Mental Care Onboard Merchant Ships, which can be downloaded from its website: ***www.seafarershealth.org/documents/Guidelines_MentalCare_lr.pdf***

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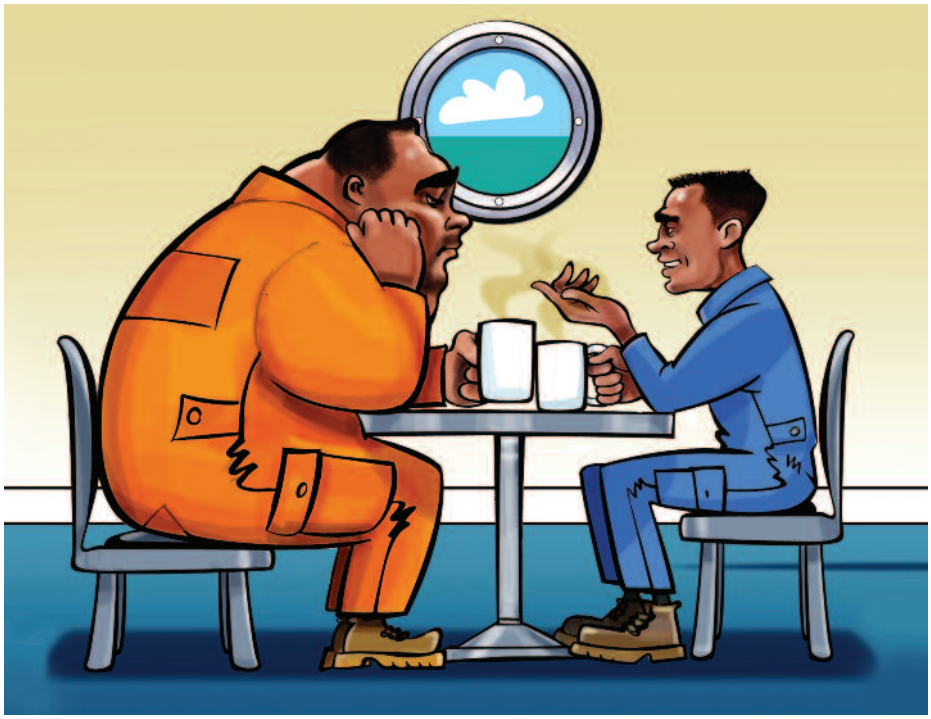

NORTH SUPPORTS INITIATIVE TO REDUCE HEALTHCARE CLAIMS IN USA

The Club is supporting a new initiative to help Members reduce the risk of incurring excessive medical bills in the USA. Called 'First Call', the innovative scheme has been developed by two of North's long-standing US correspondents, Hudson Tactix and Shuman Consulting Services.

The scheme is entirely optional but Members using the service should make significant savings on medical costs. They will also generally be able to get crew members released from hospital more quickly, in some cases before their last port of call in the USA, thus avoiding the need for repatriation and replacement.

Dedicated Telephone Numbers

As soon as a crew member needs medical treatment in the USA, it is recommended that Members use the First Call dedicated telephone numbers. Local staff from Hudson or Shuman will then ensure the crew member is taken directly from the ship to a reputable and fully audited treatment facility, ensuring they receive excellent medical attention as quickly and as cost effectively as possible.

Depending on the seriousness of the injury or illness, the First Call team will continue to monitor the crew member's progress throughout their stay in the USA and, where necessary, assist with repatriation. Medical services provided by the hospital and the associated costs will be monitored closely, as will the welfare of the crew member in the event of a prolonged hospital stay.

All Major US Ports to be Covered

The First Call service will initially cover 25 principal ports in and around the US west, east and south coasts. It will be extended to all major US ports by the end of 2012.

Details of the new service are provided in Club Circular 2012/030 entitled First Call – New Medical Service for Vessels Visiting Ports in USA – available on North's website: ***www.nepia.com/publications/clubcirculars/listing***

Members requiring more information should contact Julie Pichler or David Rearden at the Club.

FIRST CALL

MARITIME LABOUR CONVENTION COMING IN 2013

The International Labour Organization (ILO) recently received the 30th ratification of the Maritime Labour Convention (MLC) 2006. The ratification by Russia and the Philippines fulfils the requirement that at least 30 ILO member countries ratify the convention. The other requirement that ratifying countries represent 33 per cent of the world's gross tonnage was met in 2009. The convention will therefore take effect in August 2013.

The convention establishes minimum requirements for almost all aspects of working conditions for seafarers including conditions of employment, hours of work and rest, accommodation, recreational facilities, food and catering, health protection, medical care, welfare and social security protection.

ILO

SNIFFING OUT SOUTH AFRICAN STOWAWAYS

Last year the South African Department of Home Affairs implemented a new ruling that stowaways cannot be disembarked at any South African port unless they are in possession of a valid travel document.

The new ruling will make it significantly more difficult for ship owners to disembark stowaways in South Africa.

Ships Must Now Wait

Prior to the new ruling, it was possible to disembark undocumented stowaways fairly easily while arrangements were made to obtain their travel papers. But now, whereas it may be possible to document stowaways prior to arrival at a South African port, ships must remain in port until the stowaways have been placed on a flight to their country of origin.

Depending on a vessel's schedule, remaining in port may not be practical. Consequently the stowaways will need to stay on board until the next convenient port which will allow them to disembark. Stowaways are active in all South African ports but the majority seem to come from Richards Bay, Durban and Cape Town.

Using Sniffer Dogs

Some ship owners use local sniffer dog services to detect stowaways before leaving South African ports. The dogs, usually Jack Russell terriers, have an acute sense of smell and can detect odours too faint for ordinary people to notice, as well as being able to hear high-pitch sounds and access confined spaces.

Searches are generally undertaken by a team of eight handlers and six highly trained dogs. It takes about 3-4 hours to carry out a search of a vessel and this is done just before departure from the port.

High Success Rate

In Durban there are three main canine search companies. They carry out searches on around 50-60 vessels a month each and have an extremely high success rate. Many stowaways are found prior to the vessel sailing from the berth and are handed over to the South African police and prosecuted for trespassing. There is no liability to the shipowner in such cases.

Once a vessel has been cleared for its outward voyage by the authorities and stowaways are found on board, the shipowner will be liable for all costs of disembarking and repatriating the stowaways back to their country of origin. However, usually the search companies provide a guarantee for their services although the terms of the guarantee vary from vessel to vessel and from company to company.

Advice to Members

Members considering using the services of a canine search company are advised to review the contractual agreement and benefits carefully before commissioning the service as there will often be exclusion clauses.

The cost of the service can be as little as around US$700 per search. The cost could be viewed as minimal when considering the costs, fines and fees associated with the repatriation of stowaways who may be secreted on the vessel.

The Club is grateful to Ronald Evans of P&I Associates (Pty) Ltd, South Africa, for this article.

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Julie Pichler
Manager

INACCURATE STORES RECORDS PENALISED

Members should ensure their ships' records for stores and provisions are accurate, up to date and that any customs declaration exactly matches the situation on board. This is particularly important when calling at Argentine ports.

The Club has been advised of a number of fines by Argentine customs authorities for ships' records not exactly matching the actual amounts of routine consumables – such as bunkers, lubricating oils, paints and food.

Under section 962 of the Argentine Customs Code, where an item has not been included in the ship's list, the fine can be up to twice the market value of the goods. Under section 964, where quantities are less than those declared, for example 5 litres of paint instead of 10 litres, the fine can be up to five times the market value.

Agents also Liable

The ship's agents will be jointly and severally liable for any fine, so can often look to shipowners for some form of security before the ship sails – even if the customs authority has not yet lodged a formal fine. The laws are not always applied uniformly, depending on the port, and regular searches by customs officers can be expected.

Should a customs fine and potential delay to the ship appear likely, Members should involve the Club at an early stage rather than attempting to negotiate directly with Argentine customs authorities.

Further advice can be sought from Julie Pichler at the Club: ***julie.pichler@nepia.com***

PASSENGER INCIDENTS AND DISORDER ON BOARD

In the aviation sector, a crime committed in the air will generally be dealt with wherever the plane lands. However, in the maritime sector, the position is not as straightforward.

Take the following example: one of the crew on a passenger ship is fatally injured by an intoxicated passenger. Which law applies? What are the master's powers in this scenario? Which investigative authority should the operator call upon to assist?

Applicable Law

In broad terms, the applicable law is that of the country in which the incident occurred. Generally, a territorial state has jurisdiction over merchant vessels in its waters and over crimes committed on board such vessels. So, if the incident occurred on a merchant vessel in port in the UK, or within UK territorial waters, the UK courts would have jurisdiction to deal with the matter, irrespective of the nationality of the offender, the victim or the vessel's Flag State.

If the incident occurred when the vessel was in international waters, however, the state whose flag is flown by a ship can claim jurisdiction.

For the purposes of English law and jurisdiction, the Merchant Shipping Act 1995 (MSA) has territorial scope in respect of all vessels within UK territorial waters, of UK flagged vessels in international waters and, in certain circumstances, British subjects onboard foreign vessels on the high seas. Additionally, certain other English criminal law offences have extra-territorial effect including sexual offences against children, murder, manslaughter and terrorism offences, insofar as they are committed by British subjects.

Specific offences under the MSA include attempting to enter a ship after admission has been refused while being drunk and disorderly, molesting a passenger after having been warned by the master or an officer, obstructing or damaging any part of the machinery or equipment of the ship and obstructing, impeding or molesting any of the crew in the execution of their duty on or about the ship. These offences are relatively minor in nature and carry relatively low penalties.

Master's Powers

In terms of dealing with offences on board, at common law masters have absolute control over the passengers. Indeed, the passengers are bound to obey all of the master's reasonable orders, and in an emergency can even be ordered to work the ship or fight for it! Generally, masters may use any reasonable means to enforce obedience to their lawful commands. Furthermore, under the MSA, masters of any UK ship may cause any person onboard to be put under restraint if and for so long as it appears to them necessary or expedient in the interest of safety or for the preservation of good order or discipline on board the ship.

In English law, the test for what is reasonable and proportionate in the context of an arrest is relatively straightforward. The test simply requires that any force used must be 'reasonable in the circumstances'. As with most issues on board, what constitutes a reasonable and proportionate response is a matter for determination by the master at the time of the incident.

There is no doubt that the jurisdictional issues surrounding passenger related incidents on board merchant vessels are complicated. Whatever the location of the offence, it is suggested that the prudent course of action for masters is to ensure that their actions are 'reasonable and proportionate' in the circumstances and that all available evidence relating to the incident is preserved.

The Club is grateful to Scott Oakes of Eversheds, Newcastle, for providing this article.
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EARLY REDELIVERY OF VESSELS

Alexandra Davison
Solicitor

English law has a concept of a 'repudiatory breach', which is when a contracting party demonstrates an intention not to be bound by the contract. For example, when a charterer attempts to redeliver a vessel prior to the earliest contractual redelivery date, this may be considered to amount to a repudiatory breach.

In the recent case of Isabella Shipowner SA v. Shagang Shipping Co Ltd (The Aquafaith) [2012] EWHC 1077 (Comm), the judge found that the charterer's attempted redelivery of the vessel 94 days before the earliest contractual redelivery date was a repudiatory breach of contract. The judge also found that the vessel's owner was entitled to refuse early redelivery, affirm the charterparty and hold the charterer liable for hire for the balance of the minimum period of the charterparty.

Shipowner's Options

In the case of an early redelivery, shipowners have two options:

Option 1 – accept the repudiatory breach as bringing the charter to an end and putting the ship into the owners' control.

Option 2 – affirm the charter, reject the redelivery and call upon the charterer to continue to perform by paying hire until the expiry of the charter.

However, option 2 is not always available if an exception applies whereby (a) the owner has no legitimate interest to insist upon the continuation of the charterparty or (b) the owner cannot perform its contractual obligations without the charterer's cooperation. These exceptions are discussed below.

Advantages and Disadvantages of Option 1

Option 1 has the following advantages:

- The acceptance of the repudiatory breach means that there can usually be no challenge by the charterer to liability.
- It establishes the right to claim damages, so that security for the full amount of the owner's losses projected through to the end of the charter period (as far as they can be reasonably quantified) can immediately be demanded. However, the ability to convert that demand into real security must be viewed realistically.
- It places the ship into the owner's immediate control and thus minimises the ship's idle time.

But option 1 has the following disadvantages.

- It relieves the charterer of the burden of finding employment.
- It puts the charterer in a position to challenge the final quantification of the owner's claim for damages and to criticise the steps that the owner has taken to mitigate its losses.

Advantages and Disadvantages of Option 2

Similarly option 2 has advantages:

- It holds the charterer to the charter period it originally contracted to perform for.
- It places the burden of finding employment (in what is likely to be a very difficult market) on the charterer.
- It enables the owner to continue to demand hire on a regular basis in accordance with the charter.

But option 2 also has disadvantages:

- At any one time the owner's immediate claim is only for a short period of hire and security demands would be limited to the same extent.
- If the charterer persists in its purported redelivery of the vessel, and therefore refuses to find employment for it, then the ship will stand idle and there may be a period of deadlock during which neither party seeks employment for the vessel.
- As each day of deadlock passes, the ship earns nothing by way mitigating employment, and the amounts at stake between the parties in the event of a dispute will grow rapidly.
- There are some legal limitations on the right of the owner to exercise option 2, for example where the charterer can show that damages for the breach would provide the owner with a perfectly adequate remedy and that in all the circumstances the owner's conduct in refusing to take the ship back was wholly unreasonable. It is for the charterer to establish this but it does raise the risk of the owner's position being challenged and possibly decided adversely by a judge or arbitrator.
- The practical need to stem bunkers may also be inconsistent with the owner's purported refusal to take the ship back into its control.

The combined effect of the last two points is to introduce an element of risk for owners. If the charterer is able to establish that the circumstances of the redelivery fall into the limited number of cases where the owner is not entitled to affirm the contract, but should accept the redelivery of the vessel, then there is the risk that the owner will make no recovery for the period during which the ship has been idle.

There is also the added difficulty of how to break the deadlock once it has arisen. For example, if the owner follows option 2 but then becomes worried about a legal challenge to that right, or if the charterer becomes insolvent during the deadlock, and in each case the owner wishes to revert to option 1, there may be some difficulty in establishing the necessary ongoing repudiatory breach. Even if that is done and the breach is accepted, there may still be a dispute as to whether the owner acted properly and should recover damages for the interim period.

Deciding Which Option to Take

There are obviously a number of important legal and commercial considerations which need to be carefully considered by owners when deciding what the options are and which one to adopt. These include the risk of being challenged, the current availability of employment for the vessel and the prospects of successfully enforcing or securing a claim against the charterer.

Weighing up the advantages and disadvantages outlined above, general advice would be that option 1 is the safer and more commercially prudent course of action. It gives certainty to the owner's position on liability and, perhaps most importantly, it ensures that the ship is available for employment and does not stand idle while two parties take entrenched positions in a legal dispute.

However, if there is absolutely no market for employment, then there may be a stronger argument for pursuing option 2. If this is chosen, it must be carried out with careful legal consultation to ensure that the right to hold the charterer in repudiatory breach is, if at all possible, maintained.

It should be noted that although the Aquafaith case concerned a period time charter, it is considered that the reasoning of the judge could also be applied in the case of early redelivery of a vessel under a trip time charter. This has not been tested in the courts.

Members with appropriate FD&D cover who find themselves in a potential early redelivery situation should contact the Club for further guidance.

CHECK GAS DETECTORS WORK WITHOUT OXYGEN

A recent issue with a ship's gas detector, which turned out to be of the wrong type when a dangerous situation developed, has highlighted the need to check that this equipment meets the requirements of the International Maritime Solid Bulk Cargoes (IMSBC) Code before sailing.

It is well documented that detectors for combustible gases based on catalytic sensors rely on the presence of sufficient oxygen to obtain an accurate measurement. It is also well documented that certain cargoes deplete oxygen, which could give rise to false readings when using such detectors.

Detectors May Not Work

A gas detector fitted with a catalytic combustion sensor works by 'burning' a gas sample in the combustion sensor, which in turn causes a change in the electrical resistance across the sensor. That change in resistance is measured by the instrument and is translated into a combustible gas concentration in air.

However, if there is not enough oxygen in the sampled gas then combustion reaction may not take place or be incomplete, and the readings of the detector may be inaccurate. For this reason detectors with catalytic sensors are not intended for use in oxygen-depleted atmospheres.

IMSBC Code Requirements

In general terms the IMSBC Code requires detectors to be suitable for use in an oxygen-depleted atmosphere and of a type certified safe for use in an explosive atmosphere.

For cargoes such as coal and direct reduced iron (DRI) and its derivatives, as well as in the low oxygen concentrations often found in unventilated cargo holds, the IMSBC Code points out the potential problems of using gas detectors with catalytic sensors.

Not having a suitable gas detector on board could lead to a potentially dangerous situation as well as not being in compliance with the regulations. Gas detectors must be regularly serviced and properly calibrated in accordance with the manufacturer's instructions and checked for suitability for the cargo being carried before the ship sails.

IMSBC CODE

The 17th session of the International Maritime Organisation (IMO) Sub-Committee on Dangerous Goods, Solid Cargoes and Containers (DSC 17) provided another opportunity to amend the International Maritime Solid Bulk Cargoes (IMSBC) Code. More than 70 new schedules have been presented for consideration over the past year and at the latest meeting a number of additional cargoes were discussed.

Cargoes Not Listed

It is unlikely the IMSBC Code will ever encompass the wide range of cargoes carried by today's bulk carrier fleet and section 1.3 of the Code was written with this in mind. While many of the cargoes may be benign and present no risk, some will have hazardous characteristics that could jeopardise crew safety and perhaps also ship stability if conditions of carriage necessary for safe shipment of the cargo are not properly adhered to.

For cargo not listed in the Code, shippers are required to provide the 'competent authority' at the load port with the characteristics and properties of the cargo prior to loading. Based on information received, the competent authority should assess the acceptability of the cargo for safe shipment.

If no specific hazards for transportation are identified, the competent authority at the load port will authorise carriage. The competent authorities at the unloading port and the Flag State of the ship are then required to be notified.

If it is assessed by the competent authorities at the load port, that the cargo may present a chemical hazard or has a propensity to liquefy, advice should be sought from the competent authorities at the port of unloading and Flag State. The three competent authorities should then establish the preliminary suitable conditions for the carriage of the cargo. Experience to date suggests that dialogue between competent authorities could be improved in this regard.

Exemptions to the Code

As the IMSBC Code evolves and more accurately reflects today's traded commodities, the use of section 1.3 should be required less often. There is often confusion about the application of this section and also section 1.5 on exemptions and equivalent measures.

Section 1.5 only applies to cargoes already listed in the Code and permits a competent authority (Port State of departure, Port State of arrival or Flag State) to authorise a different provision for carriage by issuing an exemption from the listed Code requirements when satisfied that such a provision is at least as effective and safe as that required by the existing schedule in the Code. The Code states:

'Acceptance of an exemption authorized under this section by a competent authority not party to it is subject to the discretion of that competent authority. Accordingly, prior to any shipment covered by the exemption, the recipient of the exemption shall notify other competent authorities concerned.'

Following the notification, the other competent authorities involved have to decide whether to accept the provisions of the exemption or not. Agreement between all parties is required for the cargo to be carried under the terms of the exemption. It is not always apparent to the master of a vessel presented with a section 1.5 exemption at the load port whether this is the case.

Owners and operators planning to load bulk cargo under the terms of a section 1.5 exemption should satisfy themselves that the vessel's Flag State and competent authority at the discharge port have agreed to the provisions contained in the exemption.

MARINE FUEL OIL – FACING A MORE VOLATILE FUTURE

There are significant changes and challenging times ahead with the impending introduction of reduced sulphur content caps on marine fuel oils by Annex VI of the International Convention for the Prevention of Pollution from Ships (MARPOL).

In 2015 the sulphur limit in designated Emission Control Areas will be reduced from 1% to 0.1%, which by that time will include the North Sea, Baltic Sea, North American and Caribbean Emission Control Areas. Additionally, in 2020 the worldwide sulphur cap will be reduced from its present level of 3.5% to 0.5%.

It is therefore highly likely that by 2020 most marine fuel oils in use will be either of distillate type or a light blend of both distillate and residual.

Massive Demand for Distillates

The changes will undoubtedly result in a massive increase in demand for distillate fuel for marine use. Although statistics on fuel oil supply and demand are not comprehensive, a 2010 study by BP estimated that worldwide medium distillates production (which includes diesel and gas oils) was about 4 million tonnes per day.

An International Maritime Organization study in 2007 estimated maritime residual fuel oil consumption at 0.8 million tonnes per day and distillate fuel oil consumption at 0.2 million tonnes. At these levels it could be estimated that if the world's shipping began to burn only distillates, maritime fuel oil demand would increase from 5% to 25% of the total worldwide demand for distillates.

Inevitably, an increase in demand will most probably result in an increase in the price of bunkers and problems with availability.

Harmonising Marine and Non-Marine Supplies

Lloyd's Register's fuel oil bunkering analysis and advisory service FOBAS published a paper earlier in 2012, commissioned by the Danish Shipowners' Association, on the topic and proposed a way of managing the anticipated increase in demand for distillates.

The proposal is not an entirely new concept, being first mooted by the Canadian Institute of Marine Engineers in 1982, but essentially involves harmonising the supply of marine distillate fuel oils with that of non-marine industries.

At present refineries are running two parallel supply streams of distillate fuel, one for marine and the other, much larger, for non-marine. The main reason for this difference is the regulations which dictate the minimum flash point. To comply with existing maritime legislation, the minimum flash point is 60°C, whereas the global average requirement for non-marine and automotive use is 55°C.

If ships were permitted to use fuel oil with a flash point of 55°C rather than 60°C, the scope of supply would be broadened considerably. The FOBAS paper therefore proposes the reduction of the minimum flash point of marine fuel oils down to 55°C.

Impact of Lower Flash Point Fuel on Ships

The flash point of a fuel oil is by definition the lowest temperature at which vapours are released that could be ignited by an ignition source, such as an open flame, under proscribed test conditions. The measured flash point also varies depending on the test procedure. The requirement for a 60°C minimum flash point was introduced in 1981 by amendments to the International Convention for the Safety of Life at Sea (SOLAS). There are a number of issues to consider if this were to be reduced to 55°C.

One concern is that the specified flash point of a fuel oil is not an accurate indication of its true flash point under certain shipboard conditions, such as in the head spaces of a ship's tanks.

Also, an analysis of maritime fire statistics undertaken by FOBAS concluded that in all likelihood a fuel oil fire will be initiated by the fuel oil coming into contact with a surface above its auto-ignition temperature rather than coming into contact with an open flame or external ignition source. Auto-ignition temperature is the temperature the oil will ignite without an ignition source – and for marine fuel oil this is usually over 250°C. The same applies with incidents involving hot work on fuel tanks – it is the auto-ignition temperature that is reached which initiates the fire as opposed to an open flame igniting the vapours.

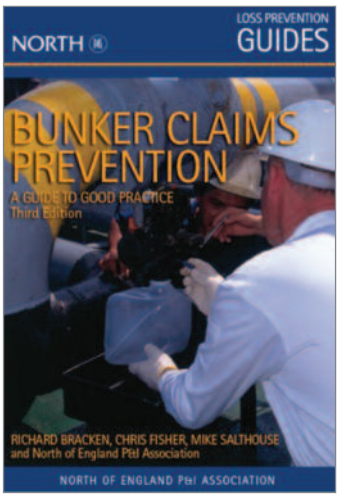
Another potential concern would be how a lower flash point fuel oil would affect the ship's plant. However, the flash point has no effect on the ignition or combustion performance of a fuel oil and therefore a fuel oil with a lower flash point will cause no detriment to the performance of a ship's engines.

Glenn Ralston
Risk Management Executive

A further issue is the presence of bio-diesel, which is now common in automotive diesel. Fatty acid methyl ester (FAME) components are often introduced to automotive fuels and may very well end up in ship's bunkers if the supply streams are harmonised. It has been thought that FAME blends are not best suited to on board storage and handling arrangements. They also have the potential for an adverse effect on oil-content meters of oily water separators, and as such their maximum content has been ruled as de minimis under ISO standard 8217:2010 on marine fuel-oil standards.

Conclusion

The Lloyd's Register proposal is at a very early stage and any change would rely upon IMO and amendments to the SOLAS convention. However, it is an interesting concept and a possible partial solution to the approaching challenge.



IMO UPDATE

Lifeboat Release Mechanisms

In May 2011 the International Maritime Organization (IMO) Maritime Safety Committee (MSC) adopted amendments to chapter IV of the International Life Saving Appliances Code.

The amendments set out in IMO resolution MSC.320(89) relate to the design, construction and capabilities of the on-load release mechanism fitted to lifeboat hooks.

They will enter into force on 1 January 2013 and become mandatory under chapter III of the International Convention for the Safety of Life at Sea (SOLAS).

Caribbean Emissions Control

In July 2011 the IMO Marine Environment Protection Committee (MEPC) adopted an amendment to Annex VI of the International Convention for the Prevention of Pollution from Ships (MARPOL), designating the US Caribbean Sea as an Emission Control Area.

The amendment, as set out in IMO resolution MEPC.202(62), will enter into force on 1 January 2013 – but certain exemptions will apply (see article on page 4).

Engine Efficiency Regulations

Last July MEPC also adopted other MARPOL Annex VI amendments under IMO resolution MEPC.203(62), including new technical performance standard regulations on energy efficiency for ships.

The regulations are intended to reduce emissions of any substances that originate from fuel oil and its combustion process, including those already controlled by Annex VI, and will enter into force on 1 January 2013.

To ensure the smooth and uniform implementation of the regulations and to provide sufficient lead time to prepare, MEPC has drafted advice – the 2012 Guidelines for the Development of a Ship Energy Efficiency Management Plan – under IMO resolution MEPC.213(63).

IMO

IMO DSC COMMITEE MEETS

The 17th session of the International Maritime Organisation (IMO) Sub-Committee on Dangerous Goods, Solid Cargoes and Containers (DSC 17) took place in September 2012. Significant items on the agenda included amendment 37-14 to the International Maritime Dangerous Goods (IMDG) Code, amendment 02-13 to the International Maritime Solid Bulk Cargoes (IMSBC) Code, amendments to the International Convention for the Safety of Life at Sea (SOLAS) to mandate enclosed space entry and rescue drills, development of measures to prevent loss of containers and the development of criteria for the evaluation of environmentally hazardous solid bulk cargoes in relation to the revised International Convention for the Prevention of Pollution from Ships (MARPOL) Annex V.

Amendments to the IMDG Code

Because of work load, a number of papers on amendments to the code were forwarded by the sub-committee of the Editorial and Technical Committee (E&T) for consideration. Topics covered by DSC 17 submissions included non-declared and mis declared cargo; this was raised in a joint submission from the International Chamber of Shipping (ICS) and BIMCO. A number of delegations expressed concern about this issue and agreed the matter should be discussed further at E&T. Further papers reporting accidents involving counterfeit refrigerants and the verification of container weights were also discussed and passed to E&T.

Amendment to the IMSBC Code

Fifty three documents were submitted for discussion under this agenda item. These included a new schedule for nickel ore proposed by France and a number of documents in support of a new iron ore fines schedule from delegations including Australia and Brazil.

Nickel Ore Schedule

The originally proposed new schedule for nickel ore submitted by France at an E&T meeting in March 2012 included a proposed new test method entitled 'Vibration Table with Penetration Bit (VTPB) Test' to be used for New Caledonia nickel ore. Following new information from their research team, the French delegation requested that the appendix to the new schedule referencing the VTPB test be removed to allow additional practical testing to be carried out. A working group established to review IMSBC Code amendments revised the proposed schedule, which will apply to all nickel ore cargoes and will rely on current Code provisions for testing and analysis.

Iron Ore Fines

A total of 11 papers were submitted referencing work done on iron ore fines research and IMSBC Code proposals for a new iron ores fines schedule. A number of research projects are underway and at varying stages of completion at this time. The sub-committee agreed to postpone the finalisation of the iron ore fines schedule until this work is complete.

In order to facilitate the earliest possible adoption of this schedule the committee agreed to re-establish the iron ore fines correspondence group with a view to supporting a collaborative research programme that will see each delegation submit peer reviewed research to the correspondence group coordinator by May 2013. The sub-committee agreed revised terms of reference for this new group and work is underway to complete this research. Until a new schedule is produced, IMO circular DSC.1/Circ.66 will remain in force.

MARPOL Annex V

In addition to discussing the development of criteria for the evaluation of environmentally hazardous solid bulk cargoes in relation to the revised MARPOL Annex V. Intercargo delivered a presentation highlighting industry concerns at the lack of reception facilities expected to be in place by 1 January 2013 for the collection of cargo hold wash water containing cargo residues considered harmful to the marine environment. In one related industry survey over 80% of receiving terminals did not have port reception facilities for cargoes that will be classed as harmful. Cargoes affected will include lead, nickel, zinc and copper concentrates, matte and bauxite.

MIDDLE EAST TRAINING COURSE IN DUBAI

Following the successful launch of an Asia Pacific version of North's popular residential training course in P&I insurance and loss prevention in Singapore last year (see *Signals* issue 86), the Middle East event successfully took place at the Dubai Marine Beach Resort, UAE, from 10 to 13 September 2012.

Over half the 48 delegates on the four day course were shore staff from Members' offices in the Middle East. They were joined by representatives from regional P&I brokers, correspondents, surveyors and consultants, providing a valuable networking opportunity for all who attended.

Delegates were provided with an overview of P&I insurance on the first day, including an explanation of how P&I works with other marine insurance policies. The remaining three days put delegates through their paces with intensive workshop based training sessions looking at pollution, collisions, cargo, charterparties and people claims.

North director Savraj Mehta set the scene throughout the course with a daily welcome and 'thought for the day'. He was joined by chief executives and North board members from local Members' offices, who visited and addressed delegates on most days.

TALKING POINTS

Talking Points is a new initiative which aims to assist masters and safety officers during safety meetings. Talking Points is a range of topical safety discussion papers and images, raising awareness of the common causes of accidents and incidents. Talking Points can be downloaded from the Club's website: ***www.nepia.com/loss-prevention/publications-and-guides/Talking-Points.php***

KEEP UP-TO-DATE

Members can keep up to date with information about topical issues by checking North's Industry News service and loss prevention briefings on the Club's website:

www.nepia.com/publications/industrynews/listing

www.nepia.com/loss-prevention/publications-and-guides/loss-prevention-briefings

Andrew Kirkham
Risk Management Executive

BRIDGE TEAM TRAINING

North has always supported the concept of training for seafarers in addition to mandatory requirements. It is a means of enhancing competence and experience in a safe environment in preparation for when that experience may be called upon in operational situations.

A current area of concern is the number of large value incidents caused by failure of the bridge team, particularly during pilotage. North has therefore been supporting an initiative by a group of serving pilots in the UK – Longscar Marine Consultants – to establish an enhanced master/pilot relationship course.

The course is run by serving pilots and includes specially designed bridge simulations based on the human factors of resource management. The course builds on resource management courses that masters and senior officers have already received.

Longscar Marine Consultants recently won the training category at the prestigious 2012 IHS Safety at Sea Awards in London.

Longscar Marine Consultants Ltd, PO Box 210, Middlesbrough, TS8 8AT, UK
*Email: **admin@longscarmarine.co.uk***
www.longscarmarine.co.uk

Colin Pratt and Andrew Robinson of Longscar Marine Consultants receiving their Safety at Sea Award from Captain Ian McNaught, Deputy Master of The Corporation of Trinity House.

BRIDGE RELATIONSHIPS SEMINAR – FREE PLACES FOR SEAFARERS

North is sponsoring a number of free places for serving seafarers at the Nautical Institute's north-east England branch seminar 'The Mariner and the Maritime Law – Managing Bridge Relationships'. The seminar will explore all aspects of bridge relationship management, from common failings through to recent developments in technology and training.

North is also introducing a new loss prevention publication COLREGS – A Guide to Good Practice at the seminar. The publication will highlight key collision avoidance rules and provides back-to-basics guidance for bridge watchkeepers, which can then be discussed and practiced using included example scenarios.

The seminar will take place at the Hilton Newcastle Gateshead hotel, UK, on 9 and 10 November 2012 and North will be delighted to welcome Members who can attend.

For more information on the seminar and to download a copy of the programme, please visit:
www.ninebranch.org

To register for your free seafarer's place, please contact Denise Huddleston at the Club:
denise.huddleston@nepia.com

Signals Search 33

Your Copy of Signals

Copies of this issue of *Signals* should contain the following enclosures:

- Container Stowage supplement (container ship operators and container ships only).

Questions

1. What kind of sensors rely on the presence of sufficient oxygen to obtain an accurate measurement?
2. Which sea's ECA comes into force on 1 January 2013?
3. What animal can be used to search for stowaways?
4. What relationships will be considered at the next Mariner and the Maritime Law seminar?
5. Which country's waters do ships transit to avoid a piracy area?
6. The first sign of what health problem may be poor performance in the job?
7. Which limit will be reduced to 0.1% in emission control areas in 2015?
8. What call is the name of North's new medical service?
9. What kind of breach of contract may occur when charterers attempt to redeliver a vessel early?

K	T	P	M	F	K	M	O	B	Z	U	X	E	Y	C
Y	T	I	L	A	U	Q	G	A	A	G	G	R	H	A
P	R	E	V	E	N	T	I	O	N	D	O	P	S	T
M	C	Q	C	F	E	X	W	Z	I	T	J	T	R	A
A	B	A	L	I	J	H	P	R	A	B	R	D	U	L
H	W	M	R	L	V	A	B	I	C	E	V	K	H	Y
K	L	P	D	I	K	R	D	G	N	I	E	P	P	T
T	F	Y	L	F	B	U	E	G	O	N	P	M	L	I
B	B	I	N	O	P	B	T	S	K	D	N	V	U	C
R	Z	Z	R	E	C	H	E	N	Y	I	W	H	S	G
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O	N	K	D	N	L	O	X	M	E	N	T	A	L	Y
L	A	G	Y	U	E	N	N	Z	Y	Z	D	K	C	O
Q	M	L	E	S	S	O	L	D	K	V	Q	Z	U	F

Signals Search is open to all readers of *Signals*.

- Send a photocopy of your completed search, along with your name and, if appropriate, name of ship, position on board, company and address to Denise Huddleston at the Club. Email: denise.huddleston@nepia.com
- All correct entries received by the closing date will be entered in a prize draw.
- Closing date Friday 30 November 2012.

Prizes will be awarded to the first correct entry and two runners-up drawn.

Details of the winner and runners-up will appear in the next edition of *Signals*.

Answers to Signals Search 32

1 Ore	**2** AVPU	**3** LLMC
4 Indonesia	**5** Performance	**6** Dubai
7 Fat	**8** Passenger	**9** Oil

Signals Search 31 Winners

Winner: Captain Romeo E Valdez – MV Ermar, International Marine Services, Greece

Runners-up: Jose Cecilio D Wagas – Vroon, Asia Pacific
Captain R Gour – Masterbulk Pte, Singapore

Disclaimer

NORTH
SERVICE, STRENGTH, QUALITY

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