

# MASTER'S HANDBOOK

The Japan Ship Owners' Mutual  
Protection & Indemnity Association



This Handbook is intended for Masters and officers as a help in emergency and/or facing typical P&I claims. For more information about P&I insurance or contact details of our correspondents, please refer to our Rules & List of Correspondents.

#### Acknowledgement

Special thanks to Mr. Tetsuro Nakamura and Capt. Takayuki Akiba of Yoshida & Partners for their invaluable assistance to develop this Handbook.

# **MASTER'S HANDBOOK**

# Contents

---

## MASTER'S HANDBOOK

---

Chapter 1 Crew Claims	
I. Major crew claims and insurance coverage.....	6
II. The causes of injury and illness .....	6
III. Steps to be taken after the accident.....	8
IV. Cautions in investigations .....	9
V. Cautions in writing Master's Report .....	9
VI. Important points.....	10
VII. Necessary documents .....	10
VIII. Flow chart .....	11
Chapter 2 Stowaways and Refugees	
I. Stowaways.....	18
II. P&I Insurance.....	18
III. Actions to be taken .....	18
IV. Points to be noted .....	20
V. Refugee.....	22
VI. Flow chart .....	23
VII. Sample forms .....	24
Chapter 3 Personal Injury	
I. Personal injury .....	30
II. P&I Insurance.....	31
III. Notification .....	31
IV. Actions to be taken .....	32
V. Cautions.....	32
VI. Advices.....	33
VII. Flow chart .....	34
VIII. Sample forms .....	35
Chapter 4 Cargo Claims	
I. Cargo claims .....	40
II. P&I Insurance .....	41
III. Actions to be taken in case of cargo damage.....	42
IV. Cautions in survey .....	42
V. Duty of carriers.....	43
VI. Points to notice in carriage of goods.....	44
VII. Check List for prevention of cargo damage .....	46
VIII. Necessary documents to be prepared in case of cargo damage.....	47
IX. Flowchart .....	48
X. Sample forms .....	49

Chapter 5 Salvage Agreement and SCOPIC	
I. Salvage Agreement .....	54
II. Recent Development of LOF .....	54
III. Special Compensation and SCOPIC Clause .....	55
IV. P&I Insurance .....	56
V. Steps to be taken when the SCOPIC clause is invoked .....	57
VI. Remarks about Salvage .....	58
VII. Flow chart.....	59
VIII. Reference form .....	59
Chapter 6 Loss of or Damage to Property	
I. Loss of or damage to property.....	66
II. P&I Insurance .....	66
III. Notification of the accident .....	67
IV. Actions after accidents .....	67
V. Points to be noted when the vessel has caused damage to property ..	68
VI. Flow chart.....	70
VII. Sample forms.....	71
Chapter 7 Collision	
I. Cause of a collision accident.....	76
II. P&I Insurance .....	76
III. Notification of the collision accident .....	77
IV. What to do in a collision accident.....	78
V. Various investigations .....	80
VI. Important points on a collision accident.....	81
VII. Conclusion.....	81
VIII. Flow chart.....	82
IX. Sample forms .....	83
Chapter 8 Oil Pollution	
I. Oil Pollution Incidents.....	90
II. P&I Insurance .....	91
III. Reporting of Incidents .....	91
IV. Steps to be taken following incident.....	92
V. How to cope with various investigations.....	94
VI. Points to be noted.....	94
VII. Summary .....	95
VIII. Flow chart.....	96
IX. Sample form and Key maps.....	97
Appendix	
MASTER'S CHECK LIST .....	102
Standard Form Letter of Indemnity	
Form AA .....	107
Form BB .....	111
Form CC .....	115

Chapter 1

# Crew Claims



# Crew Claims

## I. Major crew claims and insurance coverage

Major crew claims are divided into five categories, i.e., injury, illness, loss of life, missing, and jump ship. Payment for crew claims occupies more than 30% of the total amount covered by the Association. Even after the implementation of the ISM Code and members' efforts to keep a high standard of safety, the number of crew claims is still high and claims of this type are one of the most concern for the Association. The scope of the coverage of crew claims is stated in our Rule 19. Main items covered are as follows:

- Medical expenses
- Repatriation expenses
- Substitution expenses
- Sickness allowance
- Disability allowance
- Death compensation and funeral expenses
- Search and rescue expenses
- Loss of personal effects
- Deviation expenses during search and rescue, and bringing crew to unscheduled port for hospitalization

\*The amount of coverage is decided in accordance with the conditions of the respective employment contract and/or the applicable laws.

## II. The causes of injury and illness

### A. Major causes of injury are as follows:

- Slipping and falling
- Losing balance and falling from high place
- Falling from a step during painting work
- Squashed by collapsed cargo
- Hit by cargo fallen from crane
- Hit by wire or rope

- Stuck in a door, pontoon and cargo
- Bumped, stuck, hit and cut by objects
- Foreign objects stuck in eyes during grinding or chipping
- Pinched and wounded by machinery in operation
- Exposed to steam, fuel, poisonous liquid cargo
- Low back injury by lifting heavy materials
- Explosion in an engine room or cargo tanks
- Fire
- Falling with a life boat during drill
- Collision

In order to prevent injuries, it is essential to keep daily education and training in respect of a safety of working environment and maintenance of the vessel and equipment.

Recently, several unfortunate losses of lives have been reported as caused by explosion of chemical tankers during tank cleaning. It is highly recommended to take steps of gas freeing and gas detection using gas detectors before entering tanks. Fire works adjacent to chemical cargo tanks should be prohibited.

**B. Major diseases of crew are as follows:**

- Appendicitis
- Ureteral calculus
- Hypertension
- Gastritis
- Heart disease
- Gallstone
- Hemorrhoids
- Diabetes mellitus
- Cerebral infarction
- Liver dysfunction
- Mental disease

It is submitted that many of the above illness come from unhealthy lifestyle such as overdrinking, overeating, smoking, unbalanced diet and lack of exercise. Lifestyle related diseases can be prevented by improving lifestyle such as



controlling diet (eating less between meals, doing healthy diet, avoiding one-side diet), regular exercise and lessen intake of alcohol and smoking. Health control on board is the must.

### **C. Other accidental injuries**

- Unconsciousness due to a shortage of oxygen caused by insufficient gas freeing of cargo tanks or cofferdam
- Trapped in a concealed place
- Food poisoning
- Quarrel, suicide, assaulted by ruffians or pirates
- Traffic accident ashore

## **III. Steps to be taken after the accident**

### **A. Injury and Illness cases**

Minor injuries will be curable with first aid on board or medical attention ashore at the next port. In a serious case, however, an immediate medical procedure has to be taken. If the vessel is in port, the injured or diseased crew member can be ferried to a hospital by an ambulance but if it happens at sea, medical procedure has to be taken on board. Proper and prompt care is vital. The following steps should be considered and taken:

- First aid
- Notice to the owners and managers to seek advices
- Consultation with rescue center through INMARSAT or the radio
- Alteration of course to the nearest port
- Request for a paramedic or rescue helicopter
- Request for assistance of P&I correspondents

In an injury case, the time, date, place and cause of injury should be recorded. The evidence should be preserved and a witness statement should be taken. These documents will be helpful in investigation by authorities.

In an illness case, proper aid and medical care should be provided, getting the detailed symptoms from the sick crew member.

### **B. Missing cases**

- Check with other crew members when and where the missing crew member

was last seen on board

- Check in the missing crew member's cabin to find any sign for missing
- Search on board (especially concealed places)
- Sea search extend to the area where the crew member was last seen on board
- Notice to the owners, managers, agents and relevant authorities
- Notice to the nearest P&I correspondents

### **C. Jump ship cases**

- Investigation of the crew member's belongings (passport, valuables, any sign for jump ship)
- Interviews with fellow crew members
- Notice to the owners, managers, agents and relevant authorities
- Notice to the nearest P&I correspondents

For prevention of jump ship, it is advisable for the Master to keep passport, seamen's book and license of all the crew members.

## **IV. Cautions in investigations**

In an injury, loss of life, missing or jump ship case, police and/or immigration officers come on board for investigation. In a loss of life case, an inquest will be conducted. Full cooperation should be given to formal inquiries by relevant authorities, but before answering questions, identity of the investigators should be confirmed. Answers to the questions should be truthful. When signing statement, the Master should carefully check its contents.

In a jump ship case, a fine or penalty might be levied by the immigration office, and security (letter of guarantee or cash guarantee) is required in some countries. In a suspected jump ship case, the Master should report to the owners, managers, agents and P&I correspondents.

## **V. Cautions in writing Master's Report**

Master's Report is an important evidence to judge whether the injury, illness or death is work related or not. Accordingly, the report has to be a truthful and objective based on the incident. If there are witnesses, their statements should also be obtained. Photos of the site and other evidence should be preserved.

## VI. Important points

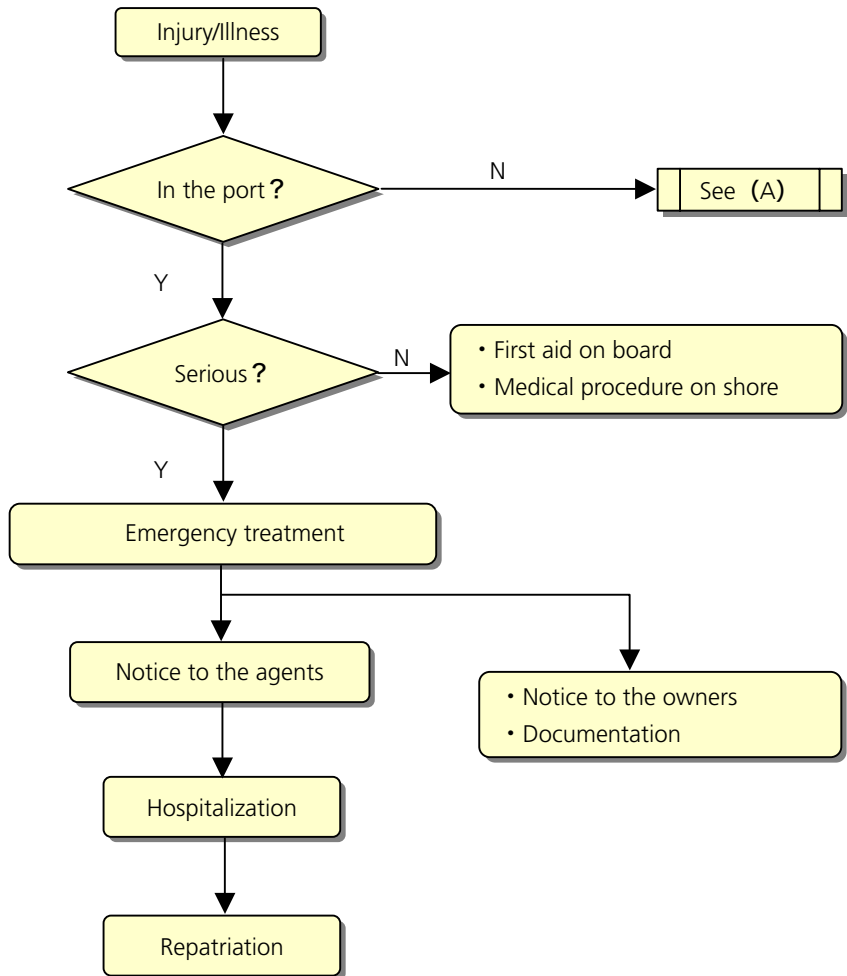
- Loss prevention by daily education, training and health control
- Stock of necessary medical kit and first aid training
- Careful decision in treatment and proper first aid
- Notice to owners, managers, agents, authorities and P&I correspondents
- Recording and writing statement of the fact and preservation of evidence

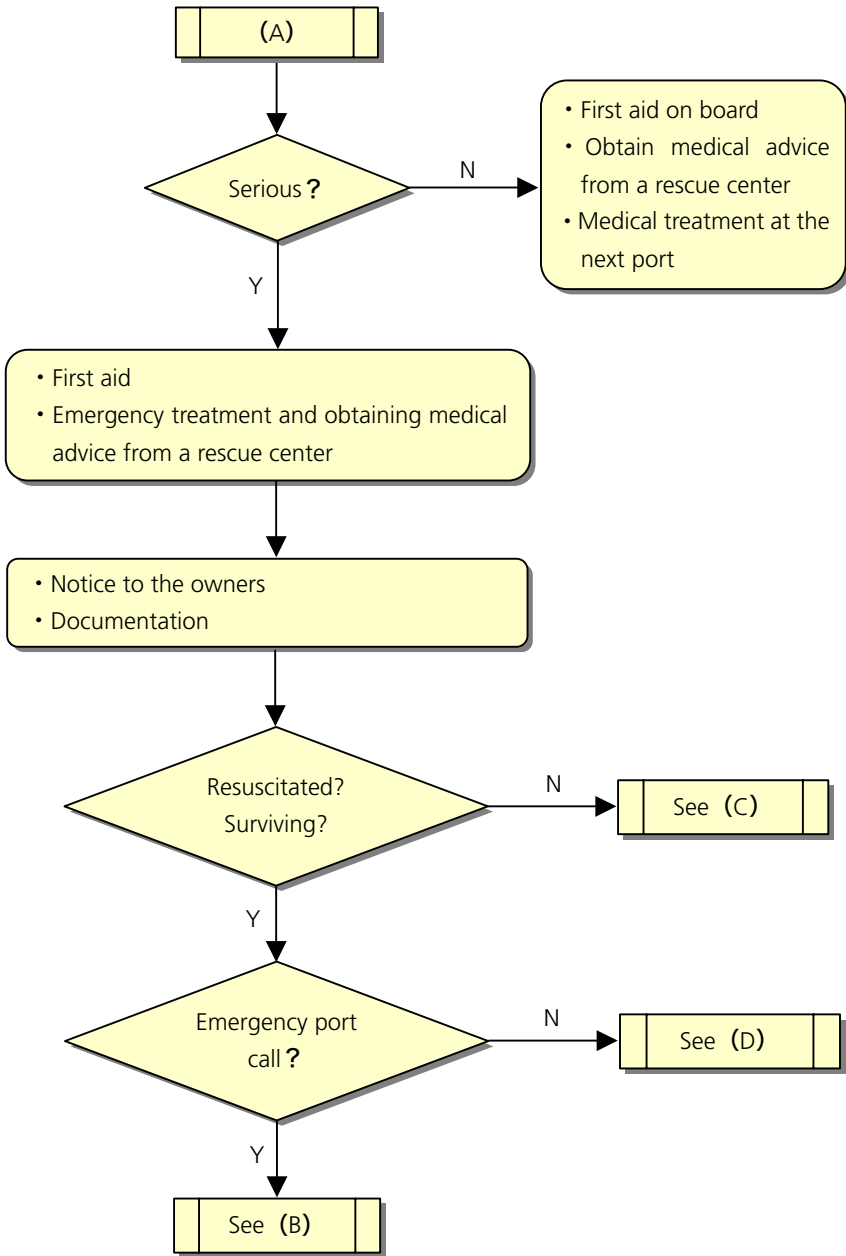
## VII. Necessary documents

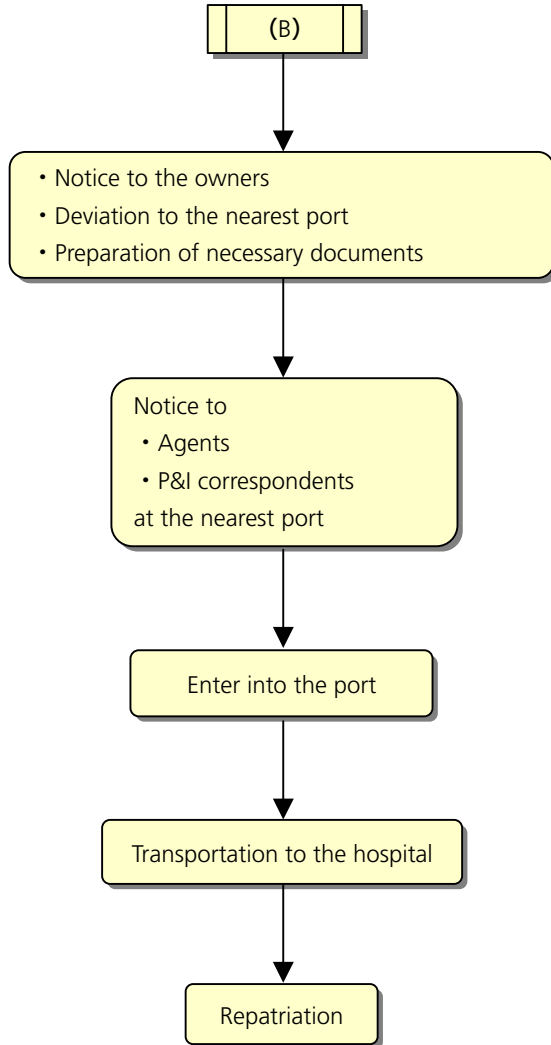
- Master's Statement of Fact
- Witness report
- Communications with the owners, managers, medical advisors and authorities
- Deviation report
- Photos of the place of incident

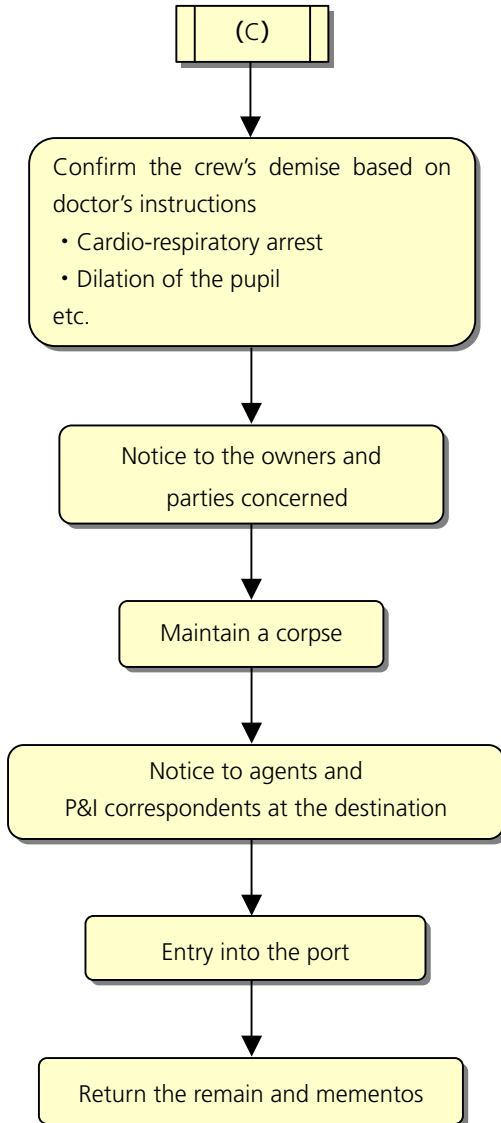


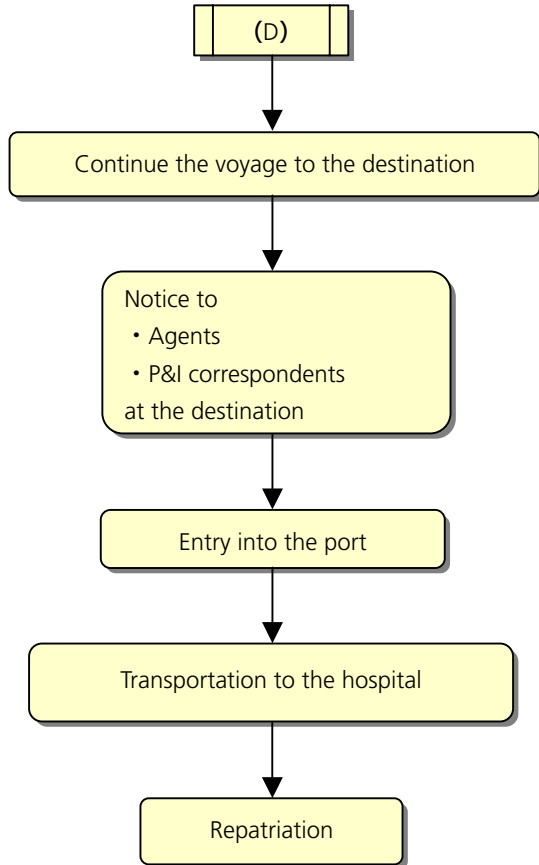
## VIII. Flow chart













## Chapter 2

# Stowaways and Refugees



# Stowaways and Refugees

## I. Stowaways

According to the IMO statistics, the number of vessels related to stowaways reported is 265 cases (574 stowaways) in the year of 2002 and 185 cases (481 stowaways) in 2003. High risk areas are East Africa and Caribbean ports. Stowaways are mainly from Morocco, Nigeria, Liberia, Congo, Algeria, Cameroon, Tanzania and Dominica. As to our members' vessels, about 60 cases out of about 2,000 ocean going vessels have been reported per year for the past 5 years.

Once a vessel sails from a port with stowaways on board, the vessel will incur considerable time, labor and expenses in removing them. Most of the countries are not willing to accept disembarkation of unidentified stowaways and therefore repatriation of stowaways through those countries is very difficult. Vigilant watch during port stay is encouraged not to allow their boarding and thorough search should be made before sailing from the port especially at high risk areas in respect of stowaways.

Following the amendments to SOLAS, the ISPS Code came into effect on 1st July 2004. It requires owners and vessels to enhance maritime security through several security plans including designating restricted areas on the vessel, conducting security patrol and controlling access of outsiders. Please observe the security plan and pay most attentions to avoid boarding of stowaways.

## II. P&I Insurance

Expenses to disembark and repatriate stowaways are covered by the Association. Main expenses are necessary costs to obtain their identification, food provided to them while on board, air fares and other transportation costs for repatriation, escort costs, agency fees and extra costs by deviation of the vessel for disembarkation.

## III. Actions to be taken

### A. Identification

Once stowaways are found on board, their identity should be clarified through

interviews and investigation of their belongings. The following actions are recommended:

1. to check passports or ID cards, if any
2. to ask name, address and other relevant information (Please see the sample questionnaires: "Information on Stowaways")
3. to ask where they came from and where they got on board
4. to check the purpose of the attempted stowing away and obtain their agreement to return to their home countries
5. to take photos and fingerprints of both hands
6. to confine stowaways to a secure area

## **B. Disembarkation**

1. Decision on the place of disembarkation

Earliest removal of the stowaways is desirable. The best way is to return to the port of embarkation. If several days have passed since the departure of the last port where the stowaways boarded, it is harsh for owners to return. In such case, the vessel needs to try to disembark them at subsequent ports of call. Usually it takes a considerable time and energy to succeed in the attempt. If the vessel is engaged in a regular trade, she can disembark them when she returns to the boarding port. The Association will advise Masters and members what options are available and how best the stowaway matters can be handled.

2. Appointment of P&I correspondents

Once the details of the stowaways are identified and the port to disembark them is decided, the Association will instruct its correspondents to take appropriate steps to disembark them.

## **C. Repatriation**

Once disembarkation and repatriation is accepted at a port, flight and other transportation should be arranged. For the repatriation, travel documents are necessary, and if required, escorts should be arranged. Agents and P&I correspondents will assist Masters in such arrangements.

## **IV. Points to be noted**

### **A. Difficulty in identifying stowaways**

Stowaways rarely possess their ID cards. They are usually not cooperative in interviews and try to deceive the crew in an attempt to delay their disembarkation and repatriation. Their answers about their nationalities and addresses may be untrue because they usually do not wish to be sent back to their home countries. In order to check if they speak the truth, interviews by interpreters or embassy clerks who speak the same first language are effective.

### **B. Fine or Penalty**

Some countries impose fines or penalty if a vessel enters any of their ports with stowaways on board or fails to give an advance notice to the authorities about the presence of the stowaways. Many countries require security guards whilst the vessel stays in their ports. Some countries impose hefty penalties if the vessel fails to keep the stowaways on board during the port stay.

### **C. Countries which are unlikely to accept entry of stowaways**

In our experience, the following countries are unlikely to accept disembarkation of stowaways:

Algeria, Belgium, France, Gambia, Haiti, Hong Kong, Italy, Japan, Kuwait, Mexico, New Caledonia, Norway, Saudi Arabia, Senegal, Singapore, South Korea, Taiwan, U.A.E. and U.K. etc.

If disembarkation is not accepted at the port, another attempt shall be made at the next calling port. If there is no chance to disembark the stowaways at scheduled ports, the vessel must consider the option of proceeding to an unscheduled port which accepts disembarkation.

### **D. Formalities**

Even though it seems possible to disembark stowaways under laws or regulations, sometimes it is difficult in practice because it takes a considerable time to obtain permission. Special attentions should be paid to formalities, since there might be some restrictions and requirements, such as limited duration of stowaways' port stay, arrangements of security guards, vaccination, quarantine and doctor's health check.

### **E. Drug smuggling**

If the stowaways boarded from a high risk area of drug smuggling, they should be suspected of carrying drugs. Thorough search of the vessel is necessary. If drugs are found on board, the relevant authorities will commence intensive investigations which may result in delay of the vessel's departure. If drug smuggling is suspected, Masters are recommended to report the fact to the relevant authorities at the destination as soon as possible.

### **F. Recovery from stowaways**

Owners are entitled to recover costs incurred from the stowaways, but it is almost impossible to do so from them.

### **G. Treat stowaways humanly**

Stowaways are nuisance but should be treated humanly. Handcuffs or binding should be prohibited, forced labor on board should not be given, and foods should be provided properly. If stowaways are not treated humanly, the crew and/or officers will be punished in some countries such as Brazil.

### **H. Best protection**

Best protection from stowaways is to make every effort to prevent boarding of stowaways. In a high risk area, the following efforts are recommended in addition to usual ISPS requirements:

1. raising of security level
2. strengthening of monitoring weather deck and seas around the vessel
3. careful watch of loading cargo and provisions
4. careful check of boarding labors and their belongings
5. vigilant patrol on board
6. thorough search of stowaways before and after sailing from the port

Stowaways often hide in the following places:

1. concealed place on upper deck
2. cargo hold and car deck
3. crane compartment
4. rudder trunk

5. life boat
6. container
7. funnel

As to the above 4, it is difficult to check before and after departure. To prevent hiding in the rudder trunk, it is advisable to place gratings on the opening of the rudder trunk.

## **V. Refugee**

Once a vessel has saved refugees and taken them on board, the vessel usually proceeds to the destination and seeks for protection by UNHCR (United Nations High Commissioner for Refugees). It depends on the government of the respective countries whether or not the country accepts landing of the refugees. Therefore, the assistance of the vessel's agents, P&I correspondents and UNHCR are necessary.

### **A. Actions when the vessel rescued refugees**

1. to give a notice to the agent (Please see the sample form "Information on Refugees" attached)
2. to request the agent to report to Port Authorities, Immigration Offices, UNHCR and Embassy of the flag state

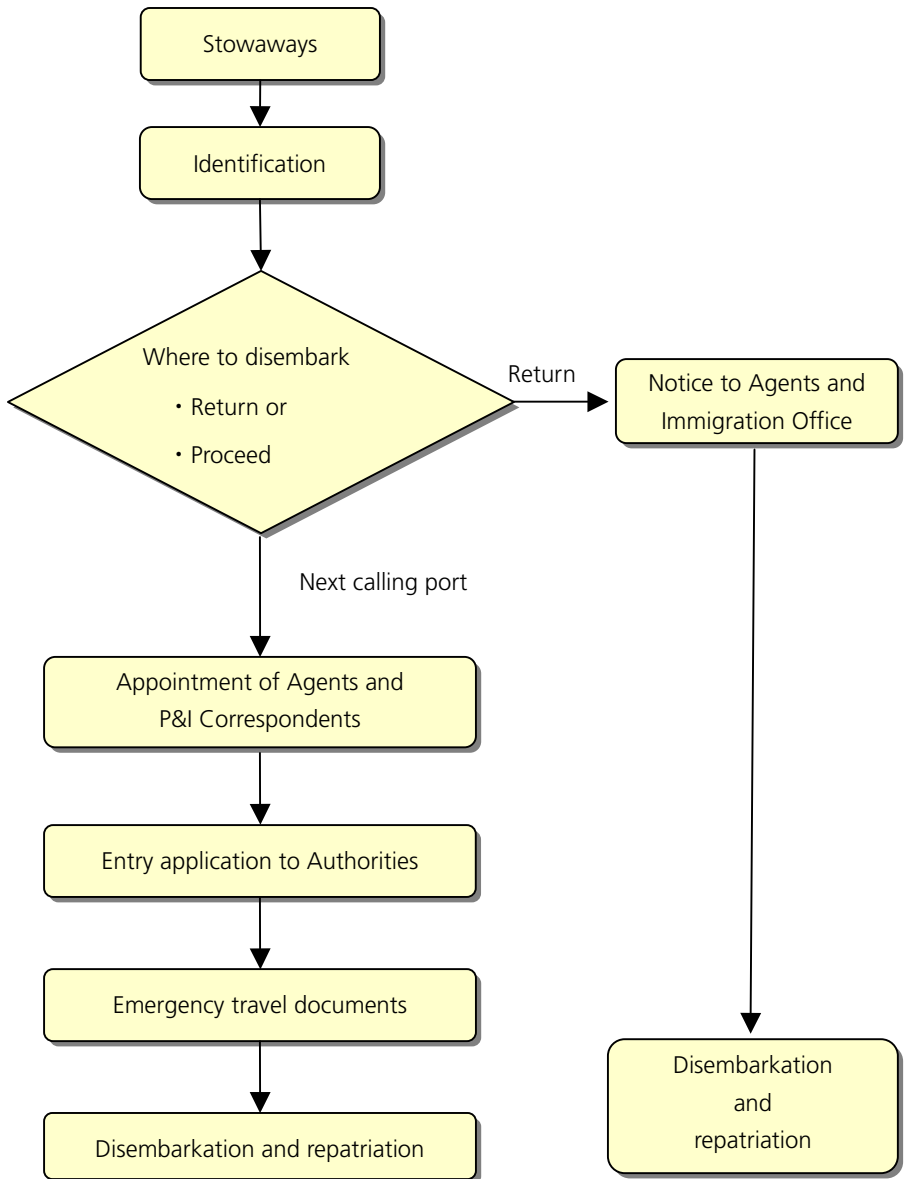
### **B. Reimbursement from UNHCR**

The following expenses can be recovered from UNHCR:

1. Daily expenses to keep refugees
2. Expenses incurred by rescue

The Association will assist members in making claims for a refund from the UNHCR. For recovery process, Masters are requested to keep all the necessary receipts and vouchers of the expenditure, and forward them to the Association through owners or managers.

## VI. Flow chart



## VII. Sample Forms

A. Information on Stowaways

B. Information on Refugees





## Information on Stowaways

### A The Vessel's Information

1	Name of vessel	_____
2	Inmarsat Number (Phone, Fax, Telex)	_____
3	Callsign / IMO Number	_____
4	Registry	_____
5	Name of Master	_____
6	Name of the owners	_____
7	Address of the owners	_____
8	Last port & departure date	_____
9	Next port & ETA	_____
10	Agent in next port	_____
11	Contact details of agent	_____

### B Description

1	Height(cm)	<div style="border: 1px solid black; padding: 10px; text-align: center;">Photograph</div>
2	Weight(kg)	
3	Gender (Sex)	
4	Complexion	
5	Colour of eyes	
6	Colour of hair	
7	Form of face	
8	Marks/Characteristics	

### C Personal Details

1	Surname	_____
2	Name	_____
3	Christian Name	_____
4	African Name	_____
5	Date of Birth	_____
6	Place of Birth	_____
7	Nationality	_____
8	Religion	_____
9	Tribe	_____

- 10 Home address
- 11 Languages (spoken & written)
- 12 Passport Number
  - When issued
  - Where issued
  - Date of expiry
  - Issued by
- 13 ID card Number
  - When issued
  - Where issued
  - Date of expiry
  - Issued by
- 14 Other document (e.g. Seaman's Book)
  - Kind of Document
  - Number of Document
  - When issued
  - Where issued
  - Date of expiry
  - Issued by
- 15 Father's Name & address
- 16 Mother's Name & address
- 17 Marital status
- 18 Name of spouse & address
- 19 Details of children
  - Full name
  - Address

#### D Boarding information

- 1 When on board
- 2 Where on board
- 3 Intended destination
- 4 Reason for boarding
- 5 Method of boarding
- 6 Date/time found on board
- 7 Hiding place
- 8 Place of discovery

E Finger Print

Right Hand	Thumb	Forefinger	Middle Finger	Ring Finger	Little Finger
Left Hand	Thumb	Forefinger	Middle Finger	Ring Finger	Little Finger

## Information on Refugees

### A The Vessel's Information

- 1 Name of vessel \_\_\_\_\_
- 2 Inmarsat Number (Phone, Fax, Telex) \_\_\_\_\_
- 3 Call Sign / IMO Number \_\_\_\_\_
- 4 Registry \_\_\_\_\_
- 5 Name of Master \_\_\_\_\_
- 6 Name of the owners \_\_\_\_\_
- 7 Address of the owners \_\_\_\_\_
- 8 Last port & departure date \_\_\_\_\_
- 9 Next port & ETA \_\_\_\_\_
- 10 Agent in next port \_\_\_\_\_
- 11 Contact details of agent \_\_\_\_\_

### B The Refugees' Information

- 1 Number of Refugees on board \_\_\_\_\_  
Male \_\_\_\_\_  
Female \_\_\_\_\_
- 2 Nationality \_\_\_\_\_
- 3 The reasons of refuge \_\_\_\_\_
- 4 The date/time of rescue \_\_\_\_\_
- 5 The place of the rescue \_\_\_\_\_
- 6 The situation of the rescue \_\_\_\_\_
- 7 The condition of the refugees' health \_\_\_\_\_
- 8 The necessity of Emergency Medical Procedure (if any) \_\_\_\_\_

## Chapter 3

# Personal Injury



# Personal Injury

## I. Personal injury

In this chapter, we will focus on personal injury claims caused on board and/or near vessels other than those caused by collisions. Injury incidents often occur at the time of boarding or disembarking vessels or on shore in the vicinity of vessels. The proper maintenance of the safe working conditions of a vessel and its equipment would be indispensable in order to avoid possible risks of injuries. In this regard, crew should be trained and acquainted with the rules for safe working procedures.

During a vessel's stay in a port, various types of personnel such as pilots, agent's clerks, officers of relevant authorities, ship chandlers and longshoremen visit on board the vessel. There are also many shore workers who work for vessels such as mooring line handlers, longshoremen and terminal operators. Every measure should be taken to avoid injuries to such workers. If such workers sustain injuries due to unsafe conditions of the vessel, its equipment or crew's negligence in operation, owners of the vessel would be held liable for such injury and, if so, have to pay compensation and extra expenses.

We will pick up examples of personal injury claims:-

- A longshoreman slipped on deck which resulted in low back injury. He alleged that he slipped due to oily substances on deck.
- An authority officer fell into the sea while climbing up a gangway ladder and got injured. He alleged that he fell due to poor maintenance of the ladder.
- A sandlead of heaving line thrown by a crew hit a line man on shore and injured him. He asserted that the cause of the incident was careless handling of the sandlead by the crew.
- During mooring operation of a vessel, a mooring line was parted and hit a shore worker, which resulted in a severe injury to him. The injured asserted that the mooring line was parted due to poor maintenance of the line.
- A longshoreman fell into a hold as a result of a broken step of the hold ladder. He complained about the poor maintenance of the steps of the hold ladder.

- A pilot fell into the sea at the time of his transfer from a pilot boat to the vessel and died. His bereaved family alleged that the fatal incident was caused by the ship's change of the course and speed when he was stepping onto the vessel's pilot ladder.
- A female visitor putting high heeled shoes stumbled on the non-slip metal of ship's stairs and fell to the floor. Her compensation from the shipowners was reduced to one-half because of her contributory negligence of putting on high heeled shoes when visiting high risk area such as vessels.

Usually, the injured party alleges that the vessel was unsafe and/or the crew's negligence and claim compensation from the owners of the vessel in tort. Their demand includes loss and damage such as medical expenses, loss of income during medication and pain and suffering. Sometimes their settlement demand would be unexpectedly high.

## **II. P&I Insurance**

Members' liabilities for the injury to third parties are covered by the Association. In an injury case, medical expenses, loss of income and pain and suffering are main items of the claim. Funeral expenses would be added in a fatal injury case.

## **III. Notification**

If an injury accident happens on board or on shore in relation to the vessel's operation, please notify the situations as quickly as possible to a local P&I correspondent, owners, managers, agents, police and authorities as necessary. If a case appears to be serious, lawyers' advice and assistance would be necessary for preparation of a possible legal action.

Necessary information to P&I correspondents would be:

- The name of the vessel
- The time and place of the incident occurred
- Involvement of personal injury
- The extent of the injury
- Circumstances and surrounding conditions of the injury
- Possible cause of the injury
- Contact details of the vessel's agent

- ETA/ETD of the vessel

#### IV. Actions to be taken

Initial actions to be taken by Masters and crews are:

1. Rescue and first aid
2. Investigation of the situations leading to the incident
3. Investigation of the scene of the incident and the cause of the incident
4. Investigation of possible contributory negligence of the injured or the third parties
5. Preparation and preservation of the evidence, such as
  - a. Master's statement of fact, which includes the information suggested in the above III.
  - b. Statements of witnesses
  - c. Photos
  - d. Condition of the place of the incident
  - e. Record of weather condition, sea condition, maintenance of equipments involved
  - f. (In case of injury on the sea) Record of the place of injury, the vessel's manoeuvring and engine motion (such as charts in use, bell book, course recorder, quarter master's log)

If a claim goes to court, depositions of crew and officers might be required. Thus, correspondence procedures with them should be arranged in case of summons.

6. Obtaining acknowledgement from the responsible third parties

If an incident happens due to other parties' faults, the Master should try to obtain a written acknowledgement from such parties as evidence, stating that the incident happened by their fault and that the vessel is not liable to the injury.

On the other hand, if the Master is requested by the injured for his signature on their statement, he should carefully read its contents. If the statement appears incorrect and harmful to the vessel's interests, please refrain from signing. If it is difficult to resist, please sign with the remark **"Without prejudice and Receipt only"**.

#### V. Cautions

When a vessel is at a berth, it is not usual that injury accidents are witnessed by any



of the crew. Not all injury cases are reported to the Master at the port. A claim might be lodged against owners long time after the incident. In such a case, officers and crew have little knowledge or recollection about the case and the vessel has little evidence, which supports that the vessel is not liable. If an injury is reported on board or on shore, it is advisable to obtain all available information and record the occurrence of the injury on the log book. If the injury is serious, please contact a local P&I correspondent and request surveyor's attendance.

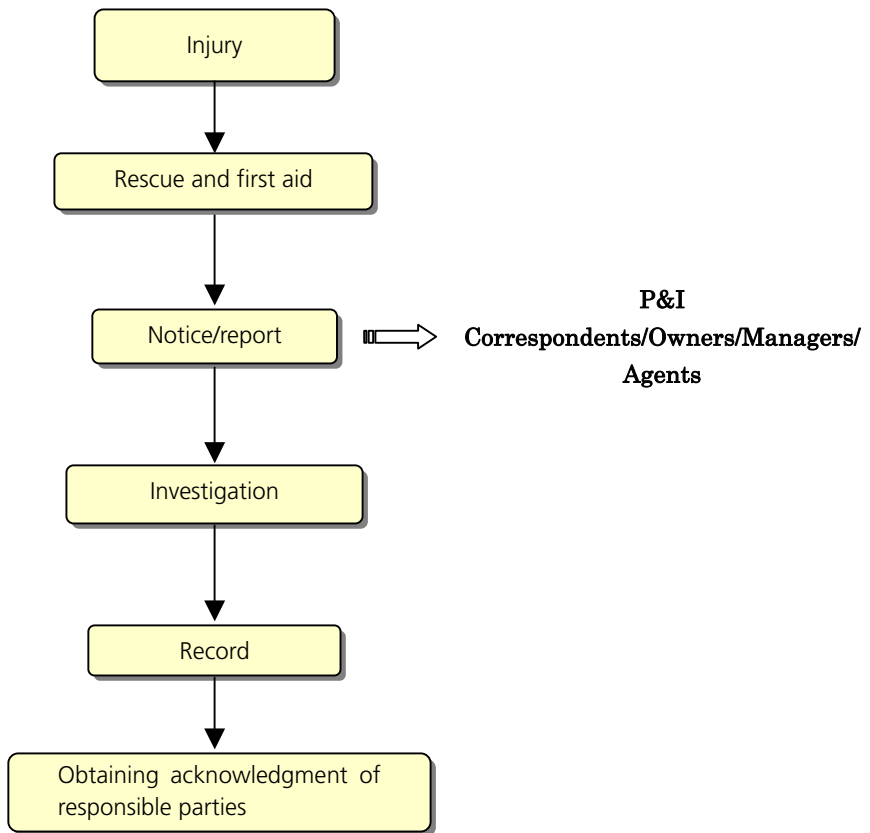
## **VI. Advices**

If there is any injury incident at a port,

- obtain all available information immediately after the incident and record it,
- obtain acknowledgement from other responsible parties, and
- keep the officers and crews contactable even after they are signed off.

It is advisable for the Master to make it a rule to obtain "No injury report" from a foreman of the stevedores after their completion of cargo work.

## VII. Flow chart



## VIII. Sample forms

A. Acknowledgement

B. No injury report



# Sample Form A

TO WHOM IT MAY CONCERN

M/V:  
VOY. NO.:  
PORT:  
DATE:

## ACKNOWLEDGEMENT

I, " name ", got injured in the " part of injured " due to  
" reason " at TT:MM, DD/MM/YY, at  
" place ".

I hereby confirm the accident arose only due to my carelessness and the vessel has no responsibility for the above.

Name:

Stevedore Company:

Signature/Date: \_\_\_\_\_

# Sample Form B

TO WHOM IT MAY CONCERN

M/V:

VOY. NO.:

PORT:

DATE:

## NO INJURY REPORT

We the undersigned hereby confirm and certify that no accident occurred and no injury was sustained by any longshoreman and/or any other person of the stevedore company, while this vessel was alongside the berth from \_\_\_\_\_ to \_\_\_\_\_ undergoing cargo loading and/or discharge operation.

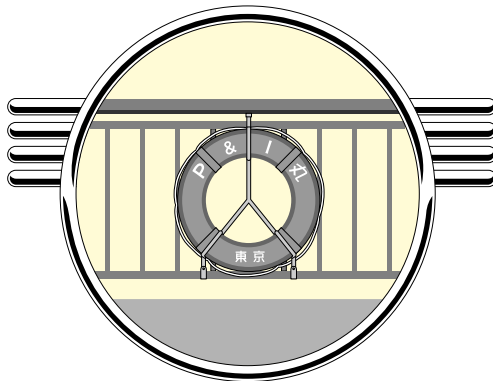
We hereby certify that the above is true and correct.

Stevedore Company: \_\_\_\_\_ Master of M/V \_\_\_\_\_

Agent: \_\_\_\_\_ C/Officer: \_\_\_\_\_

Chapter 4

# Cargo Claims



# Cargo Claims

## I. Cargo claims

Due to its frequency and the amounts involved, P&I Clubs are much concerned about the cargo claims. Our record shows, the reported cargo claims in 2005 policy year is counted approx. 1,900, whilst the total number of all kinds of claims reported in the same policy year is approx. 4,500. The cargo claims occupy about 42.2% of the all claims.

Most of the cargo loss or damage resulting cargo claims can be prevented by a proper maintenance of vessels and proper care of cargo. If a vessel causes loss or damage to her cargo and if carriers are held liable, carriers would have to compensate cargo interests for their damages. Furthermore, extra time and costs will be incurred in discharging the damaged cargo. In the worst case, cargo receivers might refuse to take delivery of the damaged cargo, that results in delay in the vessel's departure. Moreover, carriers' reputation may be deteriorated, which might result in loss of business. Accordingly, carriers are required to take proper care of cargo throughout their loading, navigating, discharging and delivering operations.

Major types of cargo claims and their typical causes are as follows:

### A. Wet damage

- Insufficient water tightness of hatch covers
- Bilge water remained in holds
- Rain during loading/discharging
- Dew condensation
- Ingress of ballast water into holds
- Crack of shell plate

### B. Physical damage

- Cargo collapse
- Insufficient or improper lashing

### C. Shortage

- Different methods for measures
- Adhesion of cargo to holds/tanks
- Spillage during loading/discharging
- Cheating by stevedores

### D. Contamination

- Contamination with previous cargo
- Contamination with cleaning water
- Contamination with tank/hold rust
- Ingress of sea water
- Cross contamination with cargo stowed in adjacent tanks due to cracks/ pinholes on the bulkhead
- Defects in or mishandling of valves of pipelines

### E. Heat damage

- Fuel overheating
- Nature of cargo
- Insufficient ventilation

### F. Over-ripen or cold damage to reefer cargo, and defrost damage to frozen cargo

- Insufficient pre-cooling of holds
- Improper temperature management
- Malfunction of reefer unit
- Rise of hold temperature during loading/discharging
- Nature of cargo
- Insufficient ventilation
- Error in defrosting of reefer unit

## II. P&I Insurance

Liabilities and costs arising out of a breach of the contract of carriage by Members to load, handle, stow, carry, keep, care for, discharge or deliver the cargo shall be covered by the Association. Extra expenses of discharging and disposing of or re-stowing the damaged cargo shall be covered by the Association insofar as these costs cannot be recovered from cargo owners or other parties.



### **III. Actions to be taken in case of cargo damage**

#### **A. Arrangement of survey**

If cargo damage is found, please contact P&I correspondents to ask for arrangement of a survey.

Necessary information to be given to correspondents would be as follows:

- Name of the vessel
- Date of the incident
- Place of the incident
- Particulars of the cargo (commodity description, quantity of damaged cargo, extent of the damage, location of stowage, B/L No.)
- Loading port, loaded quantity
- Suspected cause of the damage
- Contact details of the agent
- ETA/ETD of the vessel

#### **B. Mitigation of damage**

All possible measures for mitigation of damage should be attempted unless such would involve a risk to the vessel's safety navigation or operation or further risk of damage to cargo.

#### **C. Recording**

##### **1. Photos**

It is advisable to take photos of the damaged cargo and the suspected causes. These photos will be helpful to support Members' defense.

##### **2. Log book entries**

In addition to the aforementioned information (III-A.), sea conditions, weather and wind force should be recorded in the Log book.

##### **3. Sea Protest**

Sea Protest should be filed at next calling port, if the damage was caused by rough seas.

### **IV. Cautions in survey**

The vessel may receive several visitors including surveyors who represent cargo interests or charterers at the port. The Master has to identify each visitor and deal

with them properly. Following are cautions in survey:

- A. Identify on whose behalf the surveyor has come on board.
- B. Fully cooperate with your P&I surveyor
- C. Investigation by cargo interests' or charterers' surveyors should not be allowed until your P&I surveyor finishes his investigation. Your P&I surveyor should attend opposing surveyors' investigation.
- D. No access of cargo interests' or charterers' surveyors should be allowed to the vessel's documents or the place where damage of cargo or its cause was suspected to occur unless it is approved by the owners or courts. Please consult with your P&I surveyor as necessary.
- E. In case you are requested by cargo interests' or charterers' surveyors to sign some document, please carefully read it before signing. If it states about liability, please resist signing. If it states only about the fact of damage, just sign with the remarks "Without prejudice, receipt only".

## **V. Duty of carriers**

Most of the cargo damage can be prevented by a proper maintenance of the vessel and suitable care and handling of the cargo. The Hague/Hague-Visby Rules stipulate the following obligation of carriers:

### **A. Maintenance of seaworthiness**

Before and at the beginning of the voyage the carriers shall be bound to exercise due diligence to:

1. Make the ship seaworthy.
2. Properly man, equip and supply the ship.
3. Make the holds, reefer chambers, and all other parts of the ship where goods are carried, fit and safe for their receipt, carriage and preservation.

### **B. Cargo care**

The carrier shall properly and carefully load, handle, stow, carry, keep, care for, and discharge the goods carried.

If carriers have fulfilled the above obligation, most of the cargo damage can be prevented and even though damage occurs, carriers can be exempted from liability for the damage by virtue of the Hague/Hague-Visby Rules.

## **VI. Points to notice in carriage of goods**

### **A. At loading port**

The cargo might have been damaged before loading. If a clean B/L has been issued without putting proper remarks, carriers may confront with unexpected cargo claims from receivers/charterers. Accordingly, it is necessary to check pre-loading conditions of cargo. If pre-loading damage is found, the Master should give notice to owners, and other parties concerned and try to avoid loading the damaged cargo. If damaged cargo has already been loaded on the vessel, it is advisable to ship back the cargo and reship sound cargo as far as practically possible. If it is mutually agreed to load the damaged cargo, proper remarks should be made on Mate's Receipt and B/L.

Cargo damages might happen during loading by a sudden rain or stevedores' rough handling of cargo. If rain is anticipated and the cargo is subject to damage by rain, a duty officer of the vessel should watch the weather carefully and in case it is likely to rain, loading work should be suspended and hatch covers should be closed until the weather gets better.

Customarily, the quantity of cargo is stated on the B/L in accordance with shippers' declaration. The vessel should check the accuracy of the declared quantity as far as possible. If there is a discrepancy between the figures, the Master should notify to the parties concerned and should appoint a surveyor to verify figures.

#### **- Steel Products**

Steel products are one of the cargo which are subject to damage. In a carriage of finished steel products, it is advisable to take photos of pre-loading condition of the cargo. If rust is visible, pre-loading survey is helpful for defense from possible cargo claims. The Association will cover necessary pre-loading survey fees for finished products. However, surveys for semi-products would not be necessary.

### **B. During voyage**

#### **1. Cargo care**

Manner of cargo care differs from each kind of cargoes. The vessel should comply with instructions from shippers and charterers. If any damage is found in the

cargo, the vessel should notify to owners, managers and charterers so as to discuss mitigation of damage.

## 2. Lashing check

Periodical lashing check is encouraged.

## 3. Ventilation

Weather conditions and difference of temperature/humidity between inside and outside of holds should be carefully checked together with ventilating system.

### **C. Discharge and delivery**

Pre-discharge conference should be held as necessary with receivers, stevedores, agents, customs, quarantine and other parties concerned. While raining or when rain is anticipated, discharge work should be suspended and hatch covers should be closed as a matter of urgency, especially if the cargo is moisture sensitive. If cargo is damaged by stevedores' rough handling, the Master should issue a Letter of Protest to stevedores and obtain their acknowledgement of liability. Such incident should be recorded on the log book and reported to receivers and charterers as well as owners.

If cargo damage (such as wet damage and physical damage) is found upon opening hatch covers, the Master should notify to P&I correspondents and request arrangement of prompt surveys.

### **D. Summary of points**

#### 1. At loading port

- Due diligence to make the vessel seaworthy
- Inspections of conditions of cargo holds or tanks
- Inspection of pre-loading conditions of cargo and sampling of cargo
- Cautions for probability of rain
- Prevention of stevedores' rough handling
- Tallying and/or sounding of cargo quantity
- Prevention of pilferage
- Verification of cargo documents, such as Mate's Receipt and B/L

#### 2. During voyage

- Ventilation and temperature management of holds, and periodical sounding of hold bilge (sounding)
- Recording on log book about conditions of cargo, weather and seas
- Taking safe navigation course and changing course avoiding rough seas
- Inspection of lashing
- Prevention of fuel overheating

### 3. At discharging port

- Inspection of pre-discharging conditions of cargo and sampling of cargo
- Tallying and/or sounding of cargo quantity
- Cautions for possible rain
- Prevention of stevedores' rough handling
- Prevention of pilferage
- Receipt of Dry Certificate

## VII. Check List for prevention of cargo damage

### A. Seaworthiness

- Hatch covers and other openings on deck
- Holds and tanks
- Shell plates, bulkheads and tanktops
- Cargo pumps
- Reefer units

### B. Loading/discharging

- Pre-loading condition of cargo
- Quantity of cargo
- Loading plan
- Stowage and lashing
- Complete loading of cargo
- Sufficient stock of well-maintained lashing materials on board
- Proper maintenance of derricks and wire ropes
- Cargo pumps
- Readiness of closing a hatch in case of rain
- Prevention of stevedores' rough handling
- Prevention of pilferage
- Prevention of short/over landing

### **C. During the voyage**

- Ensuring tight lashing
- Prevention of ingress of seawater
- Prevention of fuel overheating
- Temperature management and proper ventilation
- Checking on appropriate bilge level

## **VIII. Necessary documents to be prepared in case of cargo damage**

In case of cargo damage, the Master is requested to prepare his statement, cargo documents, related ISM manual check list and other relevant documents. The following is a list of necessary documents which are usually required to prepare.

### **A. Damage by rough seas**

- Sea Protest
- Deck log book
- Master's report on navigation to avoid rough seas

### **B. Shortage**

- Letter of Protest
- Draft survey report
- Ullage report
- Dry certificate

### **C. Contamination**

- Pre-loading tank inspection certificate
- Stowage plan
- Report on method of tank cleaning

### **D. Heat damage**

- Chief engineer's report on heating of fuel oil
- Stowage plan

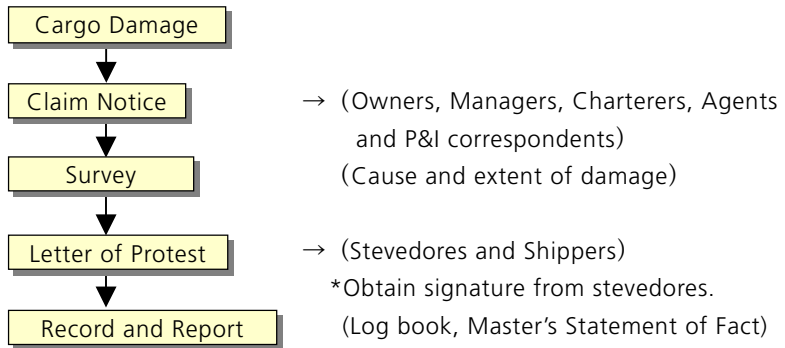
### **E. Over-ripen of or cold damage to refrigerated cargo and defrost damage to frozen cargo**

- Report on pre-loading condition of cargo

- Temperature record during the voyage
- Ventilation record during the voyage

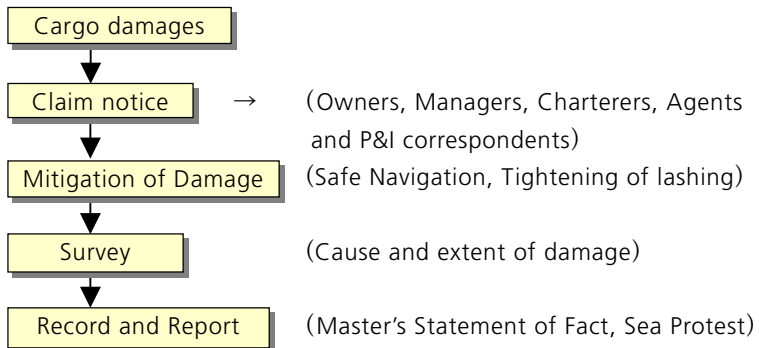
## IX. Flowchart

### A. Cargo damage at load port (e.g. Damage by stevedore's rough handling)

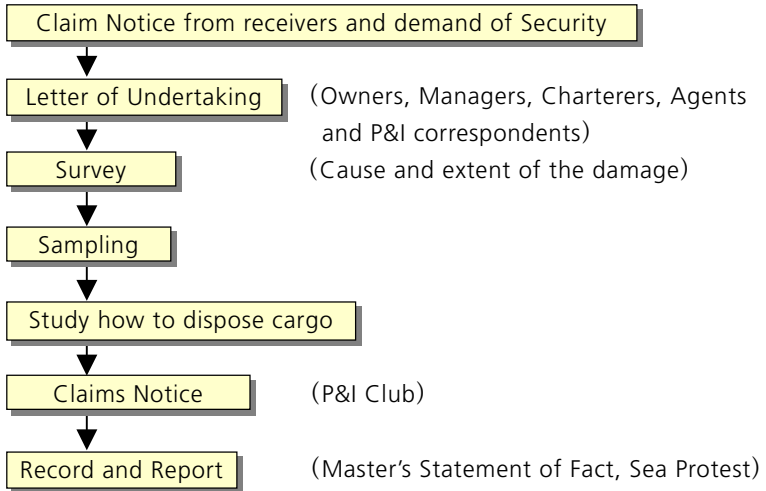


### B. Cargo damage during the voyage

(e.g. Cargo collapse and/or water ingress during rough seas)



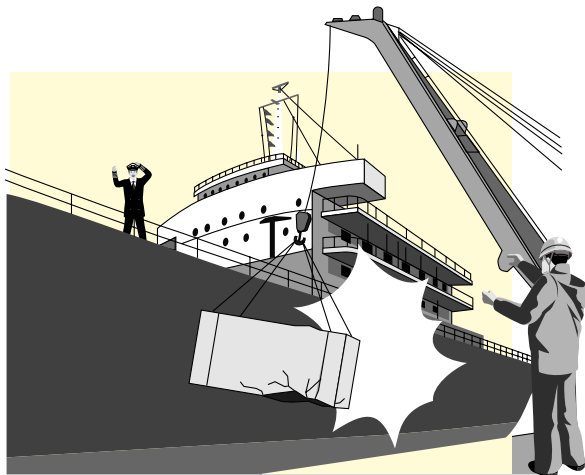
C. Off-spec of cargo and receivers' refusal of taking delivery and demand of security



X. Sample Forms

A. Letter of Protest to stevedores

B. Letter of Protest to shippers regarding short loading





# Sample Form A

Date:

Messrs.

Dear Sirs,

## LETTER OF PROTEST

M.V.

Voy.

Port

This is to advise you that the following cargo was damaged by rough and/or improper handling by you as stevedores:

B/L No.:

Description of Cargo:

Stowage:

Damaged Condition:

We hereby hold you fully responsible for the damage to the subject cargo and we shall not be responsible for any and all consequences and/or liabilities of any kind whatsoever directly or indirectly arising from or relating to the said damage.

Kindly acknowledge receipt of this letter by signing at the space below.

Yours faithfully,

Master: \_\_\_\_\_

We hereby confirm receipt of this letter and accept the above.

Stevedore Company: \_\_\_\_\_

# Sample Form B

Date:

Messrs.

Dear Sirs,

## LETTER OF PROTEST

M.V.

Voy.

Port

This is to advise you that the quantity of the cargo loaded on the vessel at this port is as follows:

Description of Cargo:

Destination of Cargo:

Stowage Tank:

Shore figures given by Shippers (A) :	<u>MT</u>
Ship's figures by ullaging/draft survey (B) :	<u>MT</u>
Discrepancy between both figures (A-B) :	<u>MT</u>

Whereas the said discrepancy being beyond vessel's control, the Owners, the Master, the Vessel and the Crew are not responsible for any dispute and all consequences and/or liabilities of any kind whatsoever directly or indirectly arising from or relating to the said discrepancy.

Kindly acknowledge receipt of this letter by signing at the space below.

Yours faithfully,

We hereby confirm receipt of this letter and accept the above.

Master: \_\_\_\_\_

Stevedore Company: \_\_\_\_\_

Chapter 5

# Salvage Agreement and SCOPIC



# Salvage Agreement and SCOPIC

## I. Salvage Agreement

In case a vessel has experienced problems or has been involved in casualties that require salvors' assistance, a Master usually notifies the situation to owners and asks them to arrange salvors to attend. Then, the owners consult with their Hull & Machinery (hereinafter "H&M") Underwriters to appoint the salvors. Upon making a salvage agreement, the salvors commence a salvage operation. Whilst there are following three types of salvage agreement, the major one is "No cure-No pay" basis, especially the LOF (Lloyd's Open Form) of Salvage Agreement:

- A. Lump sum: (The amount of salvage charge is fixed in advance.)
- B. Daily hire: (The amount of salvage charge will be calculated on a daily hire basis.)
- C. No cure-No pay: (The amount of salvage remuneration will be decided after the salvage operation based on the salvaged value (value of the vessel, cargo and other property salvaged), etc.)

This chapter illustrates the salvage agreement by the LOF. The LOF is usually signed by a Salvage Master and the vessel's Master. The salvage remuneration under the LOF is decided after the salvage operation, taking account of many factors. For instance, salvaged value of the vessel and other property, the skill and efforts of the salvors in preventing or minimizing damage to the environment, the nature and degree of the danger, the skill and efforts of the salvors in saving the vessel, other property and life, the time used and expenses and losses incurred by the salvors and so forth (See the Article 13 of the International Convention on Salvage 1989). The salvage remuneration will be covered by Property (H&M and Cargo) Underwriters, not by P&I Club.

## II. Recent Development of LOF

LOF was established in 1908 by Committee of Lloyd's as an international standard salvage agreement. The characteristic of LOF is so called "No cure-No pay." However, to meet with increasing attention to the environmental protection, radical changes

have been made to the principle of “No cure-No pay” by the introduction of Safety Net and Special Compensation since the 1980s. Then, in LOF2000 which came into use on 1 September 2000, the SCOPIC Clause was incorporated.

LOF 1980 : Introduction of Safety Net

LOF 1990 : Incorporation of International Convention on Salvage 1989  
Introduction of Special Compensation

LOF 1995 : Revision following the changes of UK Maritime Shipping Act

LOF 2000 : Introduction of SCOPIC Clause

### **III. Special Compensation and SCOPIC Clause**

The upper ceiling of the salvage remuneration will be the salvaged value (value of the vessel, cargo and other properties salvaged). If the salvors save high value vessel and cargo, they will be entitled to a fair amount salvage remuneration. However, if the salvaged value is less than the salvors’ costs, they will incur loss. Accordingly, if the salvors are not confident in receiving a sufficient salvage remuneration, they will hesitate to conclude a salvage agreement, which might result in delay of salvage operation and increased risks of environmental damages. Obviously, such situation is not the interest of ship owners, cargo owners, Property Underwriters and P&I Club.

The solution is so called Special Compensation, which was incorporated in LOF 1990. (See Article 14 of International Convention on Salvage 1989) Under LOF 1990, whilst the salvors have an obligation to make a best endeavour to prevent the environmental damages, they are entitled to receive a fair amount of salvage costs as Special Compensation in case the salvors are unable to receive a sufficient salvage remuneration due to an unsuccessful salvage operation or small value of salvaged properties in spite of the fact that the salvors prevented or minimized the environmental damages. This is an exception to the principle of “No cure-No pay.”

Whilst the system of Special Compensation was welcomed and supported by the maritime community, disputes have arisen in calculation of the fair amount of the salvors’ costs to be allowed as Special Compensation. As a comprehensive solution, the SCOPIC (Special Compensation of P&I Club) clause was established in 1999 and has been incorporated into LOF 2000.

The main idea of the SCOPIC clause is as follows:

1. A fair amount of salvors' costs is calculated by the agreed tariff (SCOPIC tariff).
2. SCOPIC remuneration means the total of the salvors' costs calculated by the SCOPIC tariff rates plus a standard uplift of 25%.
3. SCOPIC remuneration is calculated after the salvors invoke the SCOPIC clause.
4. If the salvage remuneration is less than the SCOPIC remuneration, the salvors will be entitled to receive the balance from owners.
5. If the salvage remuneration is more than the SCOPIC remuneration, the salvage remuneration in excess of the SCOPIC remuneration will be discounted by 25% as a penalty.
6. Once the salvors invoke the SCOPIC clause, the owners shall provide security (a bank guarantee or P&I Club letter) for US\$3,000,000 to the salvors within two working days.
7. SCOPIC remuneration will be assessed by the SCR (Special Casualty Representative) nominated by owners.

The primary duty of the SCR is the same as the salvors, namely to use his best endeavours to assist in the salvage operation preventing and minimizing damage to the environment. Other duties and responsibilities are:

- to report, observe and consult with the Salvage Master.
- to endorse, if appropriate, the Daily Salvage Report of the Salvage Master and transmit its copy to Lloyd's, the owners, Property Underwriters and the owners' P&I Club.
- to produce a dissenting report, if necessary, setting out any objection or contrary view and deliver it to the Salvage Master and transmit it to Lloyd's, the owners, Property Underwriters and the P&I Club.
- to produce the Final Salvage Report setting out a calculation of the SCOPIC remuneration.

#### **IV. P&I Insurance**

P&I Club shall not cover the salvage remuneration but it will be covered by Property Underwriters. On the other hand, the Special Compensation and payment to the salvors under the SCOPIC clause (the SCOPIC remuneration which exceeds the

salvage remuneration) shall be covered by the P&I Club. If the SCOPIC remuneration is less than the salvage remuneration, there will be no payment of the SCOPIC remuneration to the salvors.

- Salvage remuneration: Covered by Property Underwriters
- Special Compensation: Covered by the P&I Club
- SCOPIC remuneration in excess of the salvage remuneration: Covered by the P&I Club

## **V. Steps to be taken when the SCOPIC clause is invoked**

**(Please see VII. Flow chart)**

1. Occurrence of marine casualty
  - The Master notifies the owners of the incidents.
  - The owners consult with H&M Underwriters and appoint salvors.
2. Conclusion of salvage agreement with LOF 2000 incorporating the SCOPIC clause
  - Box 7 of LOF 2000 asks "Is the SCOPIC Clause incorporated into this agreement? State alternative: Yes/No." If the word "No" in Box 7 has been deleted the SCOPIC clause is incorporated.
  - If "No" in Box 7 has not been deleted, the SCOPIC clause is not incorporated in the agreement and does not consist of the agreement.
3. SCOPIC clause is invoked by the salvors
  - If the SCOPIC clause has been incorporated in the agreement, the salvors can invoke the SCOPIC clause at any time by notifying the owners in writing.
4. Submission of security
  - After receiving the written notice from the salvors invoking the SCOPIC clause, the owners shall provide security (a bank guarantee or P&I Club letter) in the sum of US\$3,000,000 as security for SCOPIC remuneration payable to salvors within two working days.
  - Unless the security is provided within the two working days, the salvors may give notice to the owners to be entitled to withdraw from all the provisions of the SCOPIC clause and revert to their rights of Special Compensation.
  - The amount of the letter of guarantee can be increased or decreased to a reasonable level.
5. Appointment of SCR
  - Once the SCOPIC clause has been invoked, the owners will consult with their

P&I Club and consider appointing an SCR to attend the salvage operation.

6. Appointment of Special Representative

- Property Underwriters have a right to appoint Special Representative to observe and report upon the salvage operation.

7. Completion of the salvage operation and redelivery of the vessel and cargo

- Upon completion of the salvage operation the vessel and cargo will be redelivered at a safe place in exchange for Salvage Security issued by the H&M and Cargo Underwriters.

8. Payment of remunerations

- Salvage remuneration will be paid by the H&M and Cargo Underwriters.
- SCOPIC remuneration payable to the salvors will be paid by the P&I Club.

## **VI. Remarks about Salvage**

### **A. Review of the contents of the salvage agreement**

- In marine casualties such as stranding, collision fire and engine trouble which require the salvors' assistance, there are some occasions where the salvors who have caught information first come to the scene, and offer their help to the Master. In case of emergency, the Master may decide to ask the first available salvors to assist. In that case, however, it is necessary for the Master to review the contents of the salvage agreement carefully before signing it.
- Once the salvage agreement is signed, please send its copy to the owners.
- The verbal request for salvors' assistance demands a lot of attention. Though the Master might have thought that the work ordered was simple towage, salvors might allege that it was salvage. There are reported cases in which salvors demanded payment of unreasonable amount of salvage charges after the vessel was towed to the safe place and that the vessel had been arrested by the salvors when the Master refused to pay such amount.

### **B. Collection and preservation of records and evidences**

- Time and circumstances of the accident, sea and weather conditions, the vessel's condition and remedies taken should be recorded and all the evidences should be preserved.
- The cause of the accident should not be disclosed to those other than owners, their lawyers, P&I correspondents and P&I surveyors.

### **C. Cooperation with local authorities**

- Statement should be honest and limited to facts.
- Report to the owners about the details of the authorities' questions and your



answers.

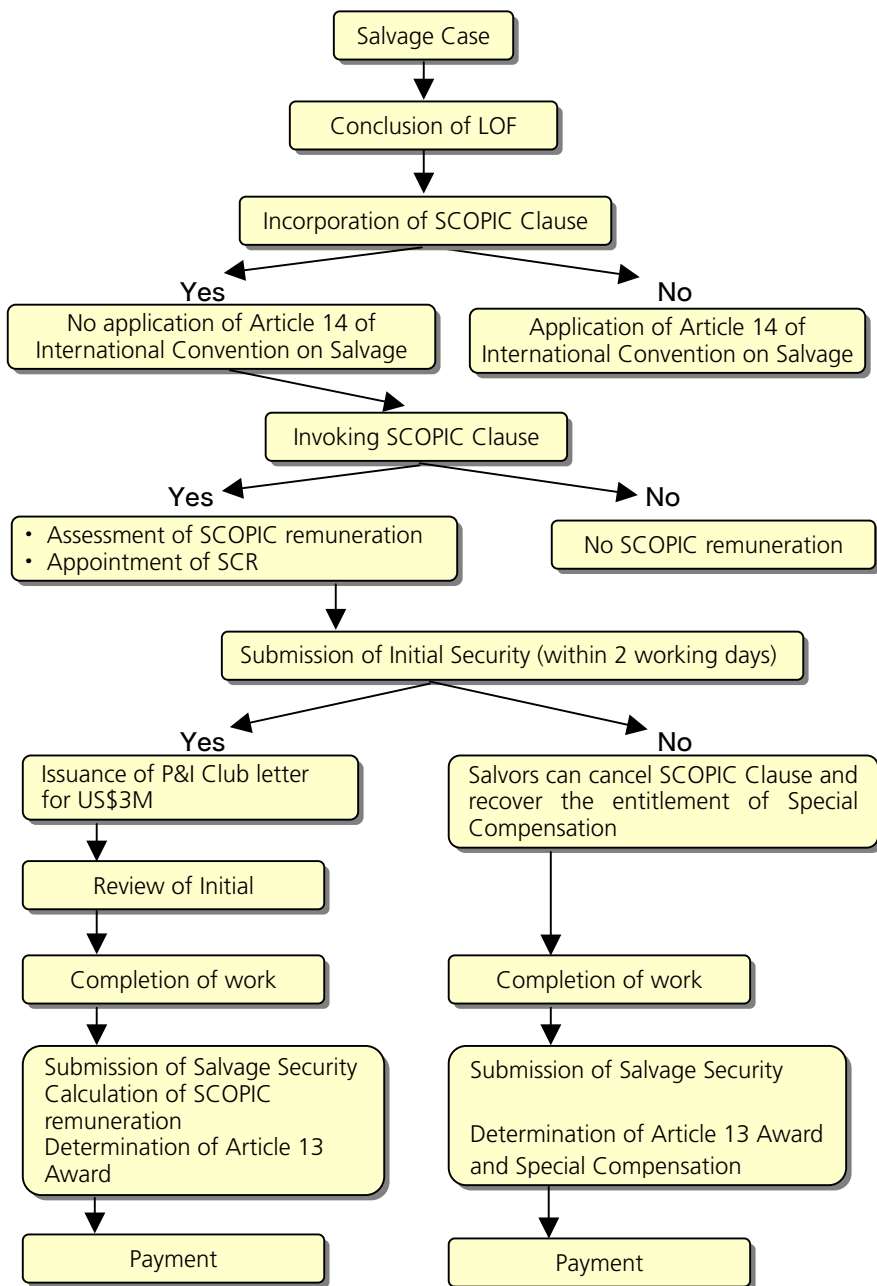
#### **D. Cooperation with the SCR**

- The SCR is a representative for the owners, cargo owners, Property Underwriters and P&I Club. He is in a position to assist the Salvage Master so as to save the vessel and property on board. Please cooperate with SCR. If you have comments and advices on the salvage operation, please advise the SCR on your ideas.

#### **E. Cautions for interviews**

- If you are requested to be interviewed, please check the identity of the interviewers.
- If the interviewers represent the owners' side (lawyers, P&I correspondents and P&I surveyors), please cooperate with them. If they represent other side, on the other hand, you should not accept their interview unless it is approved by the court.

## VII. Flow chart





<p>8. Person signing for and on behalf of the Contractors</p> <p>Signature :</p>	<p>9. Captain or other person signing for and on behalf of the property</p> <p>Signature :</p>
--	--

A. **Contractors' basic obligation:** The Contractors identified in Box 1 hereby agree to use their best endeavours to save the property specified in Box 2 and to take the property to the place stated in Box 3 or to such other place as may hereafter be agreed. If no place is inserted in Box 3 and in the absence of any subsequent agreement as to the place where the property is to be taken the Contractors shall take the property to a place of safety.

B. **Environmental protection:** While performing the salvage services the Contractors shall also use their best endeavours to prevent or minimise damage to the environment.

C. **Scopic Clause:** Unless the word "No" in Box 7 has been deleted this agreement shall be deemed to have been made on the basis that the Scopic Clause is not incorporated and forms no part of this agreement. If the word "No" is deleted in Box 7 this shall not of itself be construed as a notice invoking the Scopic Clause within the meaning of sub-clause 2 thereof.

D. **Effect of other remedies:** Subject to the provisions of the International Convention on Salvage 1989 as incorporated into English law ("the Convention") relating to special compensation and to the Scopic Clause if incorporated the

[continued on the reverse side]

Contractors services shall be rendered and accepted as salvage services upon the principle of "no cure – no pay" and any salvage remuneration to which the Contractors become entitled shall not be diminished by reason of the exception to the principle of "no cure – no pay" in the form of special compensation or remuneration payable to the Contractors under a Scopic Clause.

E. **Prior services:** Any salvage services rendered by the Contractors to the property before and up to the date of this agreement shall be deemed to be covered by this agreement.

F. **Duties of property owners:** Each of the owners of the property shall cooperate fully with the Contractors. In particular:

- (i) the Contractors may make reasonable use of the vessel's machinery gear and equipment free of expense provided that the Contractors shall not unnecessarily damage abandon or sacrifice any property on board;
- (ii) the Contractors shall be entitled to all such information as they may reasonably require relating to the vessel or the remainder of the property provided such information is relevant to the performance of the services and is capable of being provided without undue difficulty or delay;
- (iii) the owners of the property shall co-operate fully with the Contractors in obtaining entry to the place of safety stated in Box 3 or agreed or determined in accordance with Clause A.

**G. Rights of termination:** When there is no longer any reasonable prospect of a useful result leading to a salvage reward in accordance with Convention Articles 12 and/or 13 either the owners of the vessel or the Contractors shall be entitled to terminate the services hereunder by giving reasonable prior written notice to the other.

**H. Deemed performance:** The Contractors' services shall be deemed to have been performed when the property is in a safe condition in the place of safety stated in Box 3 or agreed or determined in accordance with clause A. For the purpose of this provision the property shall be regarded as being in safe condition notwithstanding that the property (or part thereof) is damaged or in need of maintenance if(i) the Contractors are not obliged to remain in attendance to satisfy the requirements of any port or harbour authority, governmental agency or similar authority and (ii) the continuation of skilled salvage services from the Contractors or other salvors is no longer necessary to avoid the property becoming lost or significantly further damaged or delayed.

**I. Arbitration and the LSSA Clauses:** The Contractors remuneration and/or special compensation shall be determined by arbitration in London in the manner prescribed by Lloyds Standard Salvage and Arbitration Clauses ("the LSSA Clauses") and Lloyds Procedural Rules. The provisions of the LSSA Clauses and Lloyds Procedural Rules are deemed to be incorporated in this agreement and form an integral part hereof. Any other difference arising out of this agreement or the operations hereunder shall be referred to arbitration in the same way.

**J. Governing law:** This agreement and any arbitration hereunder shall be governed by English law.

**K. Scope of authority:** The Master or other person signing this agreement on behalf of the property identified in Box 2 enters into this agreement as agent for the respective owners thereof and binds each (but not the one for the other or himself personally) to

the due performance thereof.

- L. **Inducements prohibited:** No person signing this agreement or any party on whose behalf it is signed shall at any time or in any manner whatsoever offer provide make give or promise to provide or demand or take any form of inducement for entering into this agreement.

**IMPORTANT NOTICES :**

1. Salvage security. As soon as possible the owners of the vessel should notify the owners of other property on board that this agreement has been made. If the Contractors are successful the owners of such property should note that it will become necessary to provide the Contractors with salvage security promptly in accordance with Clause 4 of the LSSA Clauses referred to in Clause I. The provision of General Average security does not relieve the salvaged interests of their separate obligation to provide salvage security to the Contractors.
  
2. Incorporated provisions. Copies of the Scopic Clause; the LSSA Clauses and Lloyd's Procedural Rules may be obtained from (i) the Contractors or (ii) Lloyd's Salvage Arbitration Branch at Lloyd's, One Lime Street, London EC3M 7HA.

Tel.No. + 44(0)207 327 5408

Fax No. +44(0)207 327 6827

E-mail: [lloyds-salvage@lloyds.com](mailto:lloyds-salvage@lloyds.com).

## Chapter 6

# Loss of or Damage to Property



# Loss of or Damage to Property

## I. Loss of or damage to property

### A. Loss of or damage to property of a third party

During berthing/unberthing operation of a vessel, it sometimes causes damage to jetty or quay itself or to facilities such as fenders, stoppers, bits, cranes, unloaders, loading arms on quays, etc. due to mis-maneuvering, excessive speed, insufficient look out, and so on. In other cases, the vessel may cause damage to port facilities such as break waters, navigational facilities (buoys or beacons), structures (underwater cables, underwater pipelines, aerial cables or drilling rigs), or fishing facilities (fixed nets, fish preservers or fishing beds), etc. due to dragging anchors or mis-maneuvering. These are risks covered by P & I insurance.

### B. Loss of or damage to the other vessel without contact

Liabilities arising from collisions in respect of the damages to the other vessel as well as its cargo are covered by Running Down Clause ("RDC", the collision liability clause mainly provided by Hull & Machinery Underwriters). Sometimes, however, even without physical contacts between vessels, the vessel causes loss of or damage to the other vessel, etc. For example, at the moment of near-miss, the other vessel takes evasive actions to avoid a collision and consequently it may run aground and suffer damage. In other cases, during navigation in narrow passages, the vessel's surge can cause damage to adjacent vessels, jetties to which they are moored and facilities on the jetties. These situations that there are no direct contacts between vessels are not categorized as collisions. Therefore, such liabilities which the vessel should assume to the other vessel are not covered by RDC, but covered by P & I insurance.

## II. P&I Insurance

Members' liabilities for loss of or damage to properties due to contact or without contact of vessels shall be covered by P & I insurance. On the contrary, damage to the other vessel arising from direct contact shall be handled under RDC as mentioned in the above I.B.



### **III. Notification of the accident**

When a vessel causes damage to properties such as port facilities due to contact etc., Masters are requested to promptly notify the vessel owners, managers and the nearest P & I correspondents of the correct information of the accident.

### **IV. Actions after accidents**

#### **A. Initial actions**

Immediately after the accident occurs, quick but deliberate actions are required in order to secure safety of life, vessel and cargoes. The initial actions which the Master should take are as follows:

1. Emergency measures
  - i) investigate the damaged areas of the vessel
  - ii) check/confirm any ingress of water, fire, oil spills, and injury to crew
  - iii) prevention of water ingress, fire and oil spills
2. Investigation of scope and extent of loss of or damage to property
3. Notice to the vessel owners
4. Notice to the parties concerned
5. Notice to P & I correspondents including arrangement of survey

#### **B. Grasping and notifying situation**

When you serve a notice to the owners/P & I correspondent, please act promptly and try to include the following information:

1. When and where?
2. Vessel's data
  - who were in the bridge
  - vessel's course, speed, engine movement, angle of the rudder, draft
  - whether tugs assisted or not
  - whether or not a pilot on board
  - vessel's handling
3. Sea and weather conditions (weather, direction of wind, wind force, sea conditions, tide, visibility, daytime or night-time)
4. Address/name/contact of witnesses (including crewmembers) – as many as possible

5. Conditions of property which suffered loss or damage
  - scope and extent of loss or damage
  - date of installation
  - indirect or old damages if any
  - photos and sketches

## **V. Points to be noted when the vessel has caused damage to property**

### **A. Scope of compensation for damage**

In almost all cases, it is difficult to find/prove faults of the opponent, since the damaged objects are fixed and stand still. It should be, however, noted that a fault of a third party sometimes contributed to accidents especially when the damage has occurred without physical contact of the vessel. If the fault of the opponent or a third party is found, the compensation for damage shall be based on the apportionment of liability.

The followings should also be noted:

#### **1. New for old**

When an old property (e.g. a fender) is damaged and it is replaced by a new one due to difficulty of substitution by repair or a used one, in many cases the new one will bring an additional value comparing with the previous one. It should be insisted that such added value should be undoubtedly deducted from the amount of the compensation.

#### **2. Limitation of Liability**

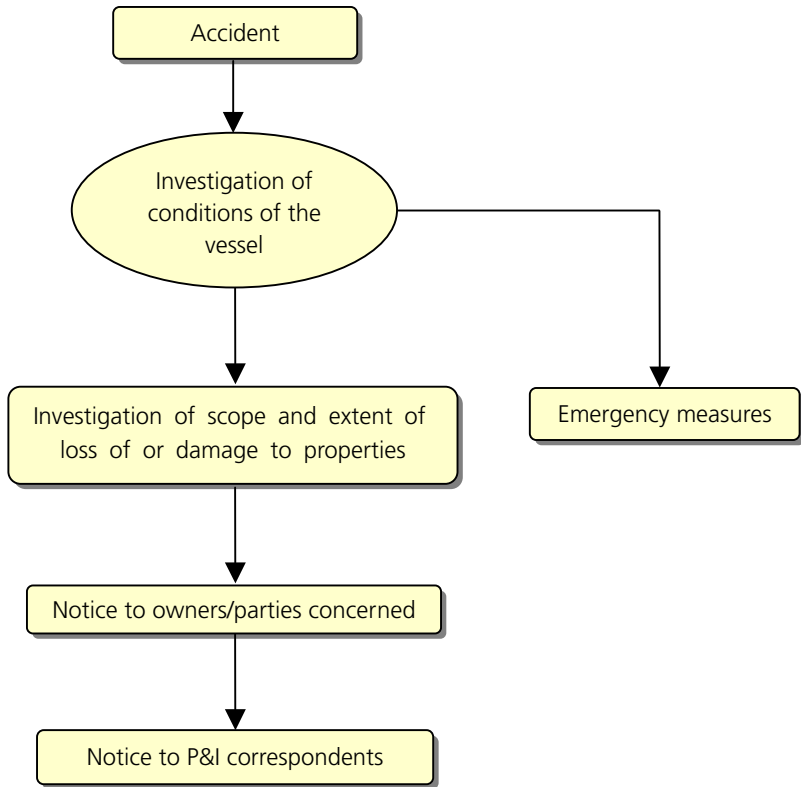
In many countries, owners are entitled to limit their liability for maritime claims lodged by third parties under laws. There are different of limitation regimes. For instance, under 1976 LLMC (Convention on Limitation of Liability for Maritime Claims, 1976) or its amendment 1996 LLMC, limitation amount is calculated by a sliding scale depending on the vessel's tonnage. In some countries, such as U.S.A., limitation amount is calculated by the vessel's value and freight earned. Accordingly, Masters should not sign any letters which accept liability and approve a full compensation.

### **B. Letter of Acknowledgement**

The owner of the damaged property sometimes demands Master's signature on a

letter of acknowledgement. In such cases, please restrict your statement only to acknowledgement of the accident and avoid statement regarding liability. You should be deliberate in dealing with letters of acknowledgement, since in many cases the opponent demands what states the vessel's side admits liability for the accident and compensation for any and all damage.

## VI. Flow chart



## VII. Sample forms

- A. Letter of acknowledgement
- B. Report form for damaging to property



# Sample Form A

## LETTER OF ACKNOWLEDGEMENT (Damage to Jetty)

Date:

To: (Name of owner/manager of property)

At around \_\_\_\_\_ hours on \_\_\_\_th \_\_\_\_\_ 200\_\_\_\_ , during operation for berthing to the jetty at (place), the vessel contacted the fenders installed on the jetty and (the number of the damaged fenders) sets of fenders got damaged.

I acknowledge the above fact.

---

(signature)

Taro Nippon

Master of PI Maru

Owned by PI Maritime Co., Ltd.

2-15-14, Nihonbashi-Ningyocho, Chuoh-ku, Tokyo

### Notes

1. The purpose of making out a letter of acknowledgement is to confirm the fact each other between the vessel and the parties concerned with the accident such as the owner of the jetty in order to avoid misunderstandings in the future regarding the damage. In other words, it is a letter confirming the fact. Therefore, it should be written plainly upon confirming the conditions of the property precisely, that is, what items got damaged into what conditions.

2. A letter of acknowledgement shall be submitted to the opponent, who suffered damage, only in case the opponent strongly demands its submission. It is not a document which the Master shall submit voluntarily.

# Sample Form B

## Report form for damaging to property

Ship's Name	
Date	
Place	
Cargo      Kind • Quantity	
The damage to Hull	
Contacted position Damage Condition The need of repairer Oil spill (or not) Casualties (or not) Fire (or not) Flood (or not)	

### Weather and sea condition

Wather	
Wind force/direction	
Sea	
Visibility	
Tide	
others	

### Ship's state

At bridge	Captain or Officer	
	Able sea man	
	other	
Ship	Heading	
	Speed/Engine PRM	
	Draft	
	Tug boart	
	Pilot	
	Progress of maneuver	

Witness

Address Name	
Address Name	
Address Name	
Address Name	
Address Name	

Condition of damaged property

The extent of the damage	
The level of the damage	
Placed date	
Photograph Sketch	
Others	



## Chapter 7

# Collision



# Collision

## I. Cause of a collision accident

Collision with another vessel is in most cases caused by negligence of the Master, crew, pilot or others. According to statistics by the Japanese Marine Accident Inquiry Agency (MAIA), the major causes of the collision accident are as follows:

- Improper Look out
- Breach of the Steering and Sailing Rules
- Breach of Rules on Sound and Light Signals
- Improper command/supervision regarding service regulations at the bridge
- Doze
- Excessive vessel speed
- Non display of the navigational lights/shapes/flags

Statistically, it has been revealed that the collision accident occurred overwhelmingly due to the Improper Look out (54%) and the Breach of Steering and Sailing Rules (19%). Over half of the Breach of Steering and Sailing Rules is composed by improper vessel's maneuvering under crossing and navigating in restricted visibility situations, crews' negligence and violation of regulations.

## II. P&I Insurance

Various claims may arise from a collision accident. Loss and damage arising from a collision accident will be shouldered by the owners of two colliding vessels in accordance with apportionment of liability between them. Amongst the losses of your own vessel, damage to the hull and machinery will be covered by your Hull and Machinery Underwriters (hereinafter referred to as "H&M"), while personal injury, oil spill and wreck removal will be covered by your P&I Club. As for the opposing vessel's losses, damage to the hull and machinery and its onboard cargo/property, as well as loss of earnings, are usually covered by your H&M under their Running Down Clause (RDC), or by your P&I Club's RDC. Furthermore, the opponent's personal injury, oil spill and wreck removal will be covered by P&I Club, but again, all of those compensations are settled in accordance with apportionment of liability. In general,

Japanese H&M usually provide 4/4<sup>th</sup> RDC, but H&M in Lloyds' market historically provide 3/4<sup>th</sup> RDC coverage, based on the Institute Time Clauses-Hulls and the remaining 1/4<sup>th</sup> coverage is provided by P&I Club.

For your quick reference, the scopes of the coverage by H&M, Cargo Underwriters and P&I Club are as below :

Categories of Claims	Insurance
Hull Damage (Own Vessel)	H&M Underwriters
Cargo Damage (Own Vessel)	Cargo Underwriters
Personal Injury/ Pollution/Wreck removal (Own Vessel)	P&I Club
Hull/Cargo Damage and Loss of Earning (Opponent)	H&M Underwriters
Personal Injury/Pollution/Wreck removal (Opponent)	P&I Club

### III. Notification of the collision accident

If a vessel is involved in a collision accident, it is important for the Master to report immediately the accurate information in brief, calm and orderly manner to the owners and other concerned parties. Even if no RDC risks are covered by the Club, a P&I claim can arise from the accident. Therefore, at the occurrence of the collision accident, the Master is always requested to notify the P&I Club or its local correspondents. Upon receipt of such notification, the Club or its correspondents will assist the Master in protecting the vessel's interest by means of conducting investigation, giving necessary advice and collecting relevant evidence.

If the vessel is entered with the Association under the policy including our Rule 23-1-(1) (Liabilities Arising Out of Collision with Other Ships – Liabilities Arising from Collisions), that is to say, the 1/4<sup>th</sup> RDC, the Association, in collaboration with the vessel's H&M, will arrange survey on the opponent's vessel to investigate the extent of damage on hull, cargo and other properties onboard. This survey is known as a "Without Prejudice Survey". Please note that in any event, survey on your own vessel's hull damage would not be conducted by P&I Club, but it would be conducted by the H&M insurer. This survey is known as "Straight Survey".

A sample form of “Notice of Claim” is as annexed for your reference.

#### **IV. What to do in a collision accident**

After securing the safety of the vessel, the Master needs to check the situation leading up to the collision and reports the fact to the owners. It is important to prepare a report before the concerned parties’ memories fade away. In every collision case, precise and detailed reports are always helpful to ascertain the cause of the collision or for negotiations with the opponent to determine apportionment of liability.

##### **A. Securing the safety**

Immediately after a collision has occurred, the Master needs to secure the safety of human lives, the vessel, and the laden cargoes in a prompt and calm manner. The following initial response should be taken by the Master.

1. Immediate investigation of the damage (extent of the damage to vessel, occurrence of any water ingress/fire/oil pollution/personal injury, etc., and if any, preventive measures to water ingress/fire /oil pollution)
2. Collection of the contact details of the opponent’s vessel (name, owners, registry, course, cargo, insurer, extent of damage)
3. Notice to the owners (name of the vessel, time/date and position of collision, personal injury, extent of hull damage, oil pollution, etc.)
4. Urgent message to the local authorities (name of the vessel, time, date and position of collision, personal injury, extent of hull damage, oil pollution and, possibility of sinking, etc.)
5. Notice to P&I Club or its local correspondents

##### **B. Checking information leading up to the collision**

1. Vessel’s headings
2. Vessel’s speed
3. How the vessel was maneuvered
4. Engine movement
5. Watch/Look out condition
6. Usage of any signals/shapes
7. Condition of the opponent’s vessel
8. How the opponent vessel’s headings were checked and with what intervals

### **C. Checking information at the time of the collision**

1. Time of the collision (ensuring consistency of time at the collision among bridge, engine room, telegraph logger and course recorder)
2. Position of the collision (lat./long., headings/distance from the notable object)
3. Situation of the vessel (speed, engine RPM, headings, hull damage part, usage information on navigational equipments, information on look out and angle of the collision)
4. Situation of the opponent's vessel (time first observed, headings and speed)
5. Weather and sea condition (visibility, weather, and wind direction/force)

### **D. Checking information on damage to the owner's vessel**

1. Colliding part of the vessel and the extent of damage
2. Voyage (Ports of departure and destination)
3. Kind of cargo onboard, its quantity and loading and discharging ports
4. Whether there is any damage to cargo
5. Name of the cargo owners and their cargo insurers

### **E. Checking information on damage to the opponent's vessel**

1. Colliding part on the vessel and the extent of damage
2. Voyage (Ports of departure and destination)
3. Kind of cargo onboard, its quantity and loading and discharging ports
4. Whether there is any damage to cargo
5. Name of the cargo owners and their cargo insurers
6. Name of the vessel owners, their P&I Club, and H&M
7. Contact details of the above interests

### **F. Collection/preservation of records**

In order to ascertain the causation leading up to the collision, periodical daily records could be considered as important evidence. The following records are of particular importance.

1. Navigational Chart: periodic marking of the vessel's position to the chart, not only when the vessel is under the command of the Master, but also when she is under the pilot's guidance.
2. Course recorder: marking the collision time

3. Telegraph logger
4. Log book
5. Bell book
6. Engine log book
7. Statement of fact: by a pilot if on board

#### **G. Consistent fact-findings shared by all personnel onboard**

Crew members' memories are vivid right after the collision accident, but they will fade away as time goes by. The Master, along with collecting the aforementioned information, should convene a meeting to collect all types of information from all crew members to grasp the fact on the collision which should be consistent with the evidential records/documents onboard.

#### **H. Obtaining a signature of the opponent's Master on the Notice of Claim**

In preparation for claims from the opponent's vessel in the future, it is necessary for the Master to obtain a signature of the opponent's Master on the Notice of Claim. The sample of the Notice of Claim is annexed hereto for the Master's usage. The opponent vessel's Master likewise would tender the same Notice and request the Master's signature thereon. The Master should only sign the Notice with the remark "without prejudice, receipt only."

#### **V. Various investigations**

After the collision accident, many parties concerned will come onboard for investigations of their own. In such occasion, the Master should check who they are and what their purposes are, and upon clarifying those, should determine whether they ought to be permitted to be onboard or should their questions be answered by the Master.

- Please render full cooperation in the investigations by lawyers, surveyors, P&I correspondents who are appointed for own vessel.
- Please reject interviews or inquiries made by lawyers appointed by the opponent party unless permitted to do so by the owners.
- The Master should also reject investigation by the opponent surveyor unless permitted by owners. Normally, surveys on the hull and the cargo (known as W.P survey) are permitted, but even such surveys are limited to check the extent of damages itself, any access to the vessel's other parts or records

should be rejected.

- The Master should fully cooperate with interviews of the Marine Authority by giving them honest and accurate answers, and if he needs to sign on his interview statement, he must make sure before he signs that the contents are accurate. Subsequently, the Master needs to report to the owners as to the Marine Authority's interview. In some countries, a fine could be imposed upon the vessel or the Master because of the collision itself or oil spill resulting from it. In such occasion, Marine Authority can demand a cash deposit or a security. Should it occur, the Master immediately needs to notify such situation to the owners or the local P&I correspondents.

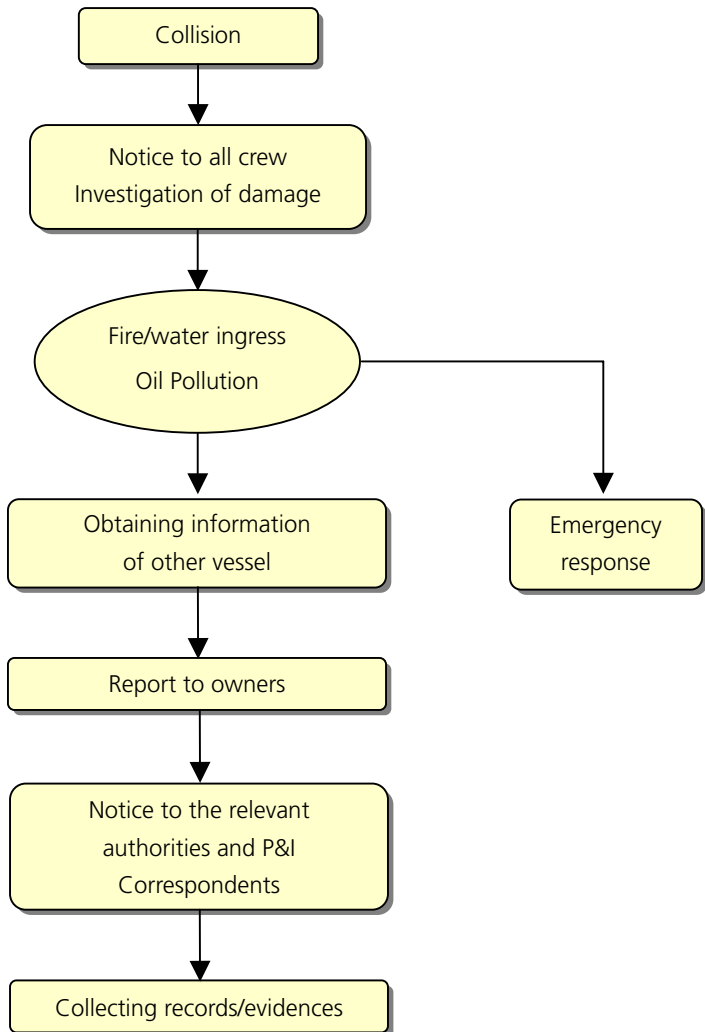
## **VI. Important points on a collision accident**

- Prioritize safety of human life
- Obtain the opponent Master's signature on the Notice of Claim
- If the Master's signature is requested for the opponent vessel's Notice of Claim, the Master should sign with the remark "Without prejudice and Receipt only"
- Do not admit any liability at the collision site
- Do not allow the opponent vessel's interest (their lawyers, surveyors and etc.) to interview the crews or take records of the vessel

## **VII. Conclusion**

- Evaluate the extent of damage to the own vessel and take necessary preventive measures to secure safeties of human life, vessel, cargo onboard and environment
- As the need arises, cooperate with the opponent's vessel in their securing the safety of human life, their vessel and cargo onboard
- Determine the information leading up to the collision
- Report collision accident to the owners, P&I/H&M and to the relevant Marine Authority.
- Collect relevant records/information
- Preserve evidence

## VIII. Flow chart

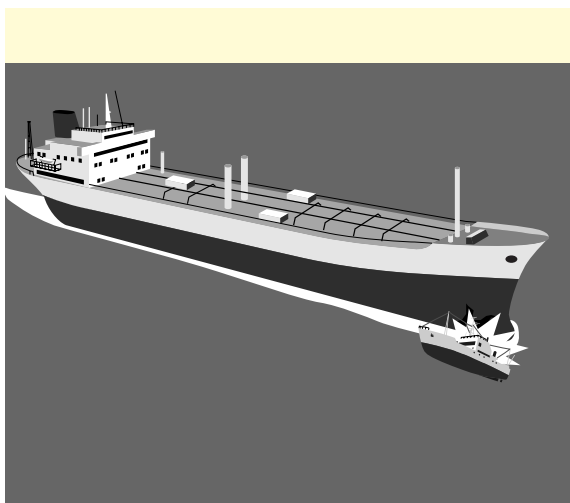




## IX. Sample forms

A. Notice of Claim

B. Form of the Report of Collision Incident



# Sample Form A

## Notice of Claim

Dated:

To the Master of MV "**opponent vessel name** "

Dear Sirs,

On behalf of the owners of the "**own vessel name**", I hereby hold you and the owners of the "**opponent vessel name** " fully responsible for any loss and damage of whatsoever nature and howsoever arising from the collision between the "**own vessel name**" and the "**opponent vessel name** " which occurred on (Date) at (Place).

Please acknowledge receipt of this notice with your signature at the end where indicated.

Yours faithfully,

---

Master of the "**own vessel name**"

Acknowledge receipt of this notice of claim on this day of

---

Master of the "**opponent vessel name**"

# Sample Form B

## Form of the Report of Collision Incident

Name of Vessel				
Date/Time				
Place	Place	Objection's Name	Bearing/Distance	
	(Lat./Long.)	(N or S)	(E or W)	
Voyage Route	(Sailing/Destination Port)			
Cargo				
<b>Situation at the time of collision</b>				
Time				
Confirmed Person/Time				
Duty Officer/Ratings	Officer			
	Q/M			
	Others			
Own Vessel	Heading			
	Speed/RPM			
	Rudder Angle			
	Change of Draft			
	Angle of Collision			
	Rader/ARPA	No.1	Range	
		No.2	Range	
	Navigation Supporting Devices	Usage Condition		
	Navigation Lights/Shapes			
	Signals			
Opponent Vessel	Heading			
	Speed			
	Way of Determination for above			
Angle of Collision				
Separation of Both Vessels				
Weather	Weather			
	Wind Direction/Force			
	Sea State			
	Current			
	Stream			
	Visibility			
	Moonlight			

<b>Both Vessels' Damaged Condition and Others</b>	
Own Vessel	Damaged Parts
Extent of Damage	
Opponent Vessel	Damaged Parts
Extent of Damage	
Personal Injury/Emergency Response	
Oil Pollution/Emergency Response	
Cargo Damage/Emergency Response	
Opponent Vessel	
Name of Vessel/Kind of Vessel	
Registered Port/Flag State/Gross Ton.	
Built of Year/Class	
Name of Owner (Contact Detail)	
Hull Insurer (Contact Detail)	
P&I Club (Contact Detail)	
Primarily Company of Contact	
Sailing Port	
Destination Port	
Kind/Quantity of Cargo	
Cargo Interests/Insurer	
<b>Situation before collision</b>	
Course Speed Maneuvering Look Out Engine Motion Signals	

<b>First observation of opponent vessel</b>		
Time of First Observation		
Bearing/Distance		
Way of Observation		
Person who observe		
Course&Speed of Opponent/Way of Determination		
Lights/Shapes		
Existence of Third Vessel		
Course/Speed of Own Vessel		
Position of Own Vessel		
<b>Details of Course of Collision</b>		
Actions of Own Vessel/Oppnent Vessel	Time	Remark
Course/Speed of Opponent Vessel		
Altering Course		
Engine Motion		
Signals (Own/Opponent Vessel)		
Transmission between Own/Opponent Vessel		
Actions of Both Vessels just before Collision		
<b>Records</b>		
Chart	* Put the vessel's positions until the time of collision	
Deck/Engine Log Book	* Write the factual events and time accurately	
Bell Book	Ditto Above	
Recording Sheets	Course Recorder	* Mark the colliision Time
	Tlegraph Logger	
	Memory of Electric Chart	
Notice Of Claim	* Obtain the signature of the opponents vessel's Master	

## Chapter 8

# Oil Pollution



# Oil Pollution

## I. Oil Pollution Incidents

A. Public concern about environmental pollution has been growing year by year and oil pollution incidents caused by vessels are, particularly recently, sensational on the media. Oil pollution leads to very expensive clean-up operations and, often, large compensation payments to third parties (especially for fishery damage). This often has deteriorating effects on the corporate image of the owners, managers, operators and other related parties. Also, owners, Masters, Chief Engineers or other officers/crews can be penalized or even imprisoned. Therefore, utmost care should be taken to prevent oil pollution incidents. The typical causes of pollution are:

1. Damage to cargo oil tanks or fuel oil tanks due to collision, sinking, grounding or explosion
2. Overflow of fuel tanks through the air vent while bunkering and/or shifting
3. Overflow of cargo tanks due to mishandling of valves or etc.

## B. Liability and compensation scheme

1. Under the International Convention on Civil Liability for Oil Pollution Damage (CLC), the owners of dirty tankers [vessels carrying oil in bulk as cargo], which cause oil pollution are held liable for the pollution damage whether or not the Masters or crew are at fault. This is referred to as the "strict liability" principle. On the other hand, the owners are entitled to limit their liability in accordance with the provisions of this Convention. For more details, please refer to the text of the Convention.
2. Parties suffering damage due to oil pollution caused by tankers which fall within the CLC may not be able to receive satisfactory compensation because of the limitation under CLC. This may be because the owners are exempted from liability because of force majeure (a contractual exclusion based on certain incidents, also often referred to as "acts of God"), or may not have sufficient insurance for oil pollution or may not have capacity to pay. In such cases, the victims are entitled to be indemnified directly by the international fund under the International Convention on the Establishment

of an International Fund for Compensation for Oil Pollution Damage (FC). For details, please refer to the text of the Convention.

- C. In the event of an oil pollution incident caused by non-CLC vessels, the owners' liability to third parties may be limited under a limitation regime such as the Convention on Limitation of Liability for Maritime Claims (LLMC Convention). Other conventions may also be available: the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS Convention) which covers pollution caused by spillage of harmful hazardous substances from non-CLC vessels has been adopted and, at the time of writing, is waiting to go into effect. The International Convention on Civil Liability for Bunker Oil Pollution Damage (Bunker Convention) which targets at oil pollution occurring as a result of bunker oil spill from non-CLC and/or non-HNS vessels was adopted in March, 2001. In addition, a new law became effective in Japan in March, 2005 imposing strict liability for oil pollution caused by bunker fuel discharge from non-CLC vessels. The limitation of liability of such owners of the non-CLC vessels is subject to the provisions of the LLMC Convention.
- D. Attention should be paid to the relevant regime of liability and compensation for oil pollution that may apply from country to country.

## **II. P&I Insurance**

P&I insurance covers damages caused to third parties due to oil pollution and/or costs and expenses incurred by the owners for preventing and/or mitigating the damage and/or cleaning the oil spilled. Insurance coverage shall also be provided when damage is caused by pollutants other than oil, such as cargo, paint, soot or etc.

## **III. Reporting of Incidents**

As soon as appropriate steps are taken to prevent the oil from spilling, please promptly report the incident to the owners, the local authorities concerned and the local P&I correspondents. It is also important to ascertain the type of the pollutant, the cause of the spill and the quantity spilled. In the case of incident in the U.S. waters, the Master should notify the Qualified Individual (QI) first.



## **IV. Steps to be taken following incident**

The Master should ensure that appropriate steps are taken in accordance with the oil pollution incident response manual (oil pollution emergency plan) prepared by the owners or the managers. In the case of incident in the U.S. waters, the Master should take appropriate steps in accordance with the Vessel Response Plan (VRP).

### **A. Emergency actions**

1. Immediate deployment of Oil Pollution Prevention Station.
2. Prevention and mitigation of further spill:
  - Closing up the leaks
  - Depressurizing the leaking tanks/pipelines and shutting down the relating valves (shutting down the valves of the gas vent pipes if applicable)
  - Transfer of oil remaining in the leaking tanks into available tanks or spaces
  - Control of the vessel's stability by trimming
3. Prevention of secondary incidents such as personal injuries, fire and explosion:
  - Having a place on the windward side of the incident site
  - Preventing invasion of toxic or flammable gas into the engine room and accommodation area
  - Removing source of fire, thorough control of fire and detection of gas
4. Clean-up and/or removal of spilled oil (collection of spilled oil with absorbents). The use of oil dispersants requires prior permission from the authorities and/or fisheries association concerned. This is especially true within United States waters where the use of unauthorized dispersants is strictly prohibited.
5. Extending oil booms.

### **B. Ascertaining the situation and reporting the status**

Please refer to the attached sample form of a report on pollution incidents.

1. Date, time and place where the pollution incident occurred
2. Presence of imminent danger of personal injuries and listing / drifting / flooding of the vessel
3. The vessel's details such as the name, type, flag and gross tonnage
4. The names and contact numbers of the owners/managers
5. Draft
6. Last port/Next port
7. Direct cause of the spill (collision, grounding, overflowing of fuel tanks during bunkering, etc.) and accounts of the event (how the oil spill

occurred)

8. The type of the spilled oil (fuel oil, lub oil, cargo oil, dirty oil (heavy oil), clean oil (light oil))
9. Location of the leaking hole/crack and its size
10. The quantity of the fuel/cargo oil before/after the spillage
11. The extent of the spill (length/width/direction of the oil spilled)
12. The weather and sea conditions (wind speed/wave height/swell/tidal current)
13. Environment (presence of fishery facilities or resort areas in the vicinity)
14. Oil spill prevention measures taken
15. Necessity for expert help

### **C. Records to be retained**

1. Deck log book, engine log book, oil record book and a record of conditions of the tanks before the incident
2. Sea protest
3. Statements of Master/crewmember
4. Photographs and video films
5. Samples of the oil spilled
6. All relevant communications/correspondence in respect of oil spill

### **D. Typical actions of oil spill response**

1. In the event of a spill of clean oil such as gasoline, jet fuel, kerosene and gas oil:  
No particular clean-up work is performed for volatile oil such as gasoline and jet fuel which easily vaporizes. Thus, necessary action must be taken to alert ships to avoid the area of the oil spill.  
When kerosene or gas oil spills, the oil can be churned by the propellers of workboats or by the sprinkling of sea water to control fires.
2. In the event of a spill of dirty oil, such as crude oil and banker fuel:  
Oil spill response plan is established depending on the quantity of the oil spilled, the weather conditions, sea conditions, tidal current and land formation. Deploying oil booms, collecting the oil with absorbents, sprinkling oil dispersants, operating oil-spill clean-up by workboats at sea and/or on the shore will be carried out, as appropriate, to clean the oil so as to prevent further pollution damage.

If a large quantity of oil has been spilled or there is a risk of serious damage to fishery or residents in the vicinity, a spill control GHQ may be set up by owners in consultation with the relevant local authorities.

3. Others:

In the event a vessel's sinking, or grounding and an oil spill continuing, salvors can be engaged to contain the spill or remove the oil remaining in the vessel.

## **V. How to cope with various investigations**

### **A. Maintain close contact and cooperation with the vessel's interests (P&I correspondents, surveyors, QI, lawyers and others)**

Following the oil pollution incident, various parties, including the relevant local authorities, will contact the vessel or come on board. The Master should first check their identities, the parties which they represent and their purposes before deciding whether or not to disclose information / permit for investigations. If the Master feels anxious, the Master should seek advice of the lawyers appointed by the owners or P&I correspondents before making a decision alone.

If the authorities wish to conduct interviews with the Master or crew, the Master should immediately check with P&I correspondents whether legal representatives are allowed to attend. If affirmative, the Master should have lawyers attend. Such attendance of lawyers is allowed in some countries.

The Master should cooperate fully with the lawyers and surveyors appointed by the owners or P&I correspondents during their investigations.

#### 1. Following directions of the authorities

It is important to answer questions honestly when interviewed by the authorities and ensure the accuracy of their investigation record when signing it. The Master should report to the owners the questions asked and answers given during the interview.

In some countries, a fine may be imposed or a cash deposit or security for the fine may be demanded. In either case the Master should urgently contact the owners, managers and/or P&I correspondents.

## **VI. Points to be noted**

### **A. Accurate and prompt report of the oil pollution incident**

It is imperative to take immediate and appropriate actions at the initial stage in order to minimize damage. With this view, accurate information has to be

provided quickly.

**B. Report of accurate quantity of the oil spilled**

Appropriate cleaning and prevention measures depend on the circumstances of the incident and the quantity of the oil which has been spilled. An underestimation of the quantity may result not only a delay in taking necessary steps but also to an expansion of damage.

In order to prevent or mitigate damage, it is vital to report the cause of the incident and the type and quantity of the oil spilled as prompt and accurate as possible.

**C. Application of oil dispersants with the prior consent of the relevant authorities**

Use of oil dispersants may be prohibited in certain areas of the world because of local fishermen's objections. Therefore, the Master should ensure that before using oil dispersants the prior consent of the authorities is obtained.

**D. Preventing secondary incidents such as personal injuries, fire and explosion**

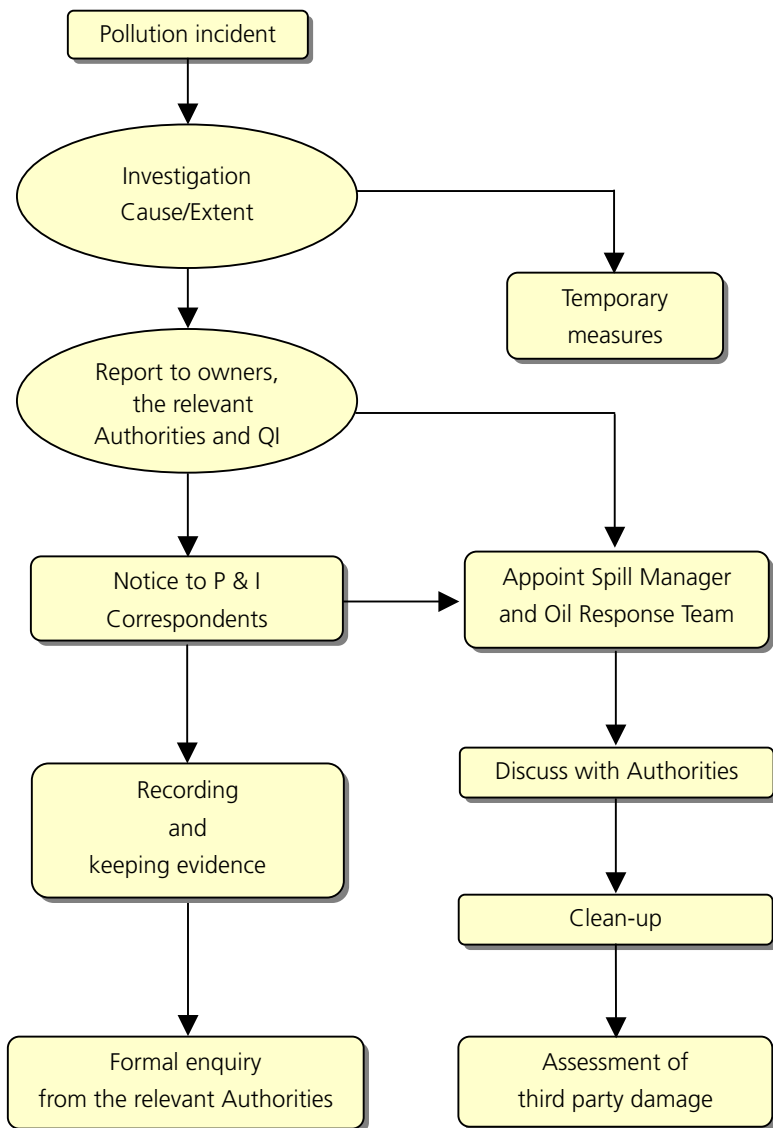
Volatile oil such as gasoline and jet fuel can generate flammable gas and results in a danger of fire or explosion. In the case of spill of this kind of oil, use of fire should immediately be prohibited. The incident should be notified to the relevant authorities and other ships navigating in the vicinity so that they are advised to keep away from the area of the spill.

The crew should be careful not to breathe toxic gas which can be detrimental to health or life.

## **VII. Summary**

- Appropriate perception of the situation
- Taking necessary steps to prevent further spill and secondary accidents
- Report to the owners, managers, P&I correspondents and the relevant authorities
- Gathering relevant records and preserving evidence

### VIII. Flow chart



## IX. Sample form and Key maps

- A. Report form for oil pollution
- B. Disastrous oil pollution response plan
- C. Oil pollution response plan (Malacca Straits)

Notes:

In the event of an oil pollution incident in Malacca Straits, the relevant authorities take the initiative to effect oil cleaning and prevention measures in liaison with the vessel, her P&I club and the local P&I correspondents.

Please also note the following;

Singapore: The Maritime and Port Authority take charge of the pollution incident.

Malaysia: While the Marine Department is in charge of maritime affairs, pollution incidents are controlled by the Department of Environment.

Indonesia: The Navy, local police and local governments take the initiative.

Thailand: All cleaning and prevention measures are to be effected exclusively by the Royal Thai Navy without any intervention of third parties.

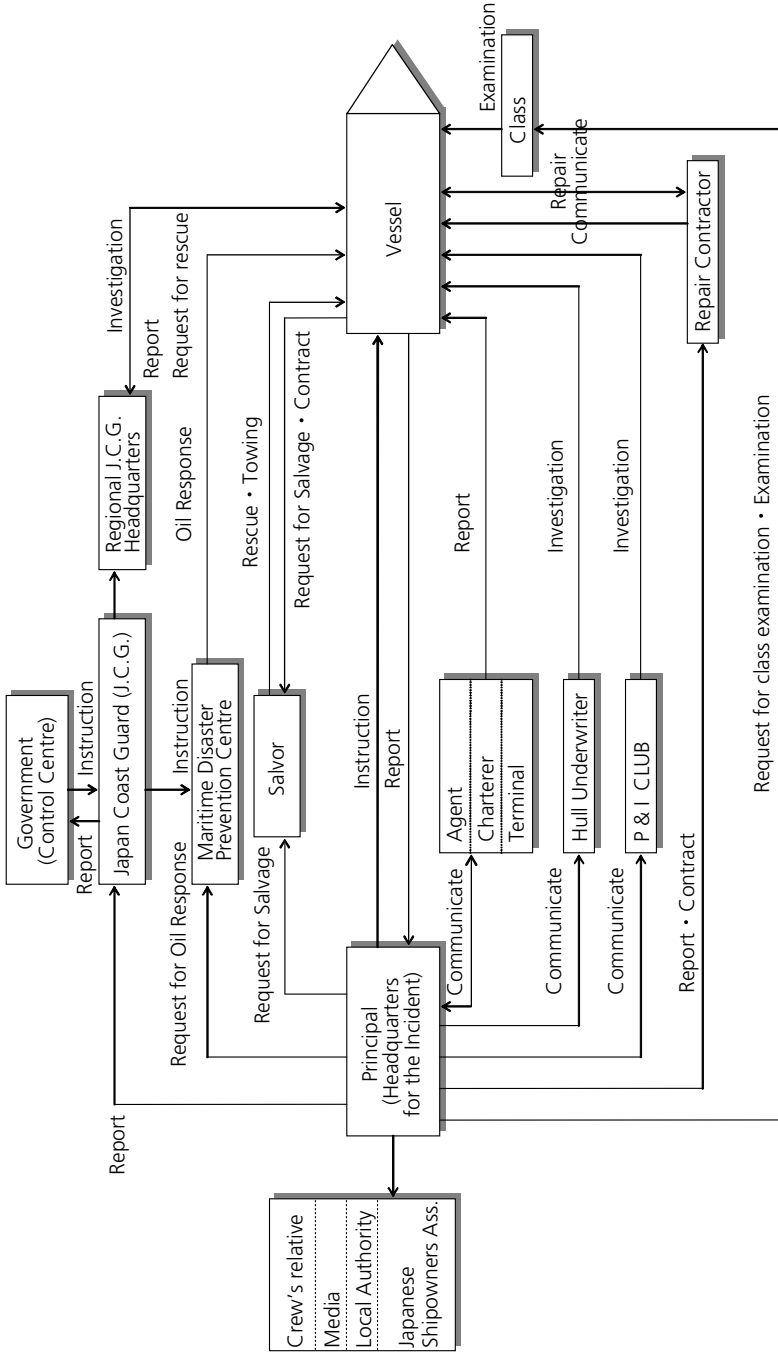


## REPORT FORM FOR OIL POLLUTION

Ship's Name • Registry			
Kind of Ship • Gross ton			
Owner's name • Contact Details			
Agent • Contact Details			
Accident Date			
Accident Place		Landmark                      Bearing • Distance	
		Position                      N or S                      E or W	
Pressing Matters (Life • Hull)			
Draft			
Departed port • Destination			
The cause of Oil pollution		Collision • Ground • Over Flow of bunker	
Is the oil overboard ?	Yes • No	Continue ?	Yes • No
The progress of the accident			
Kind of the oil (Fuel • Cargo)			
Quantity of the overboarded oil			
Where is the outflow of oil			
The outflow rate (Dimension of the bore)			
Kind of the cargo and on-hand      quantity      before accident			
Kind of the fuel and on-hand      quantity      before accident			
The conditions		Length of oil slick	
		Width of oil slick	
		Condition of weather / sea	
The surroundings (Fishing facility of lee side)			
The taken action on the accident			
Do you need an assistance ?		Yes • No	
Others		Did you report to Coast Gard ?	
		Shipper	
		Charterer	
		Cargo underwriter	
		Hull underwriter	

# Key Map

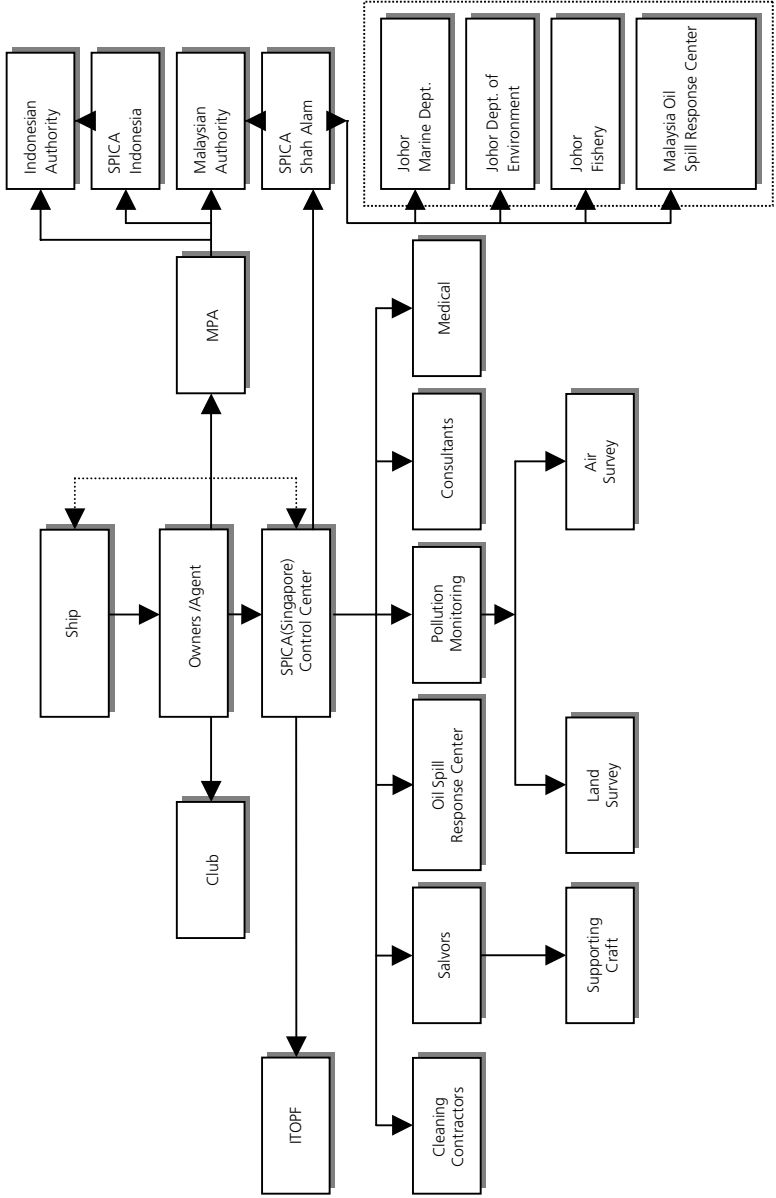
## DISASTROUS OIL POLLUTION RESPONSE PLAN





Key Map (Malacca Straits)

OIL POLLUTION RESPONSE PLAN



# Appendix

- 1.MASTER'S CHECK LIST
- 2.LOI Sample Forms (AA, BB, CC)  
(Cargo delivery without production of B/L)

# MASTER'S CHECK LIST

Masters are required to inspect the ship before commencement of the voyage or entering the port or in case of necessity, in accordance with the following check list and take corrective actions if necessary to improve the state of the ship for the purpose of the safety of the voyage.

## 1. DOCUMENTS AND COMMUNICATIONS

1. Are standing instructions, procedure manuals for accidents, regulations, plans, certificates, sailing instructions, company code and such available?
2. Are sufficient communications exchanged in time between the company and the Master?
3. Was the necessary information made known to all crew?
4. Were the points to be paid attention to next voyage or cargo works in case of entering the port made known to all crew?

## 2. BRIDGE AND RADIO OFFICE

1. Are navigational equipments such as radars, GPS, echo-sounder, gyro/magnetic compass, steering gear and such in full working order?
2. Are navigation and bridge organization manuals available?
3. Is compass error constantly checked and recorded, and is deviation table posted?
4. Are standing orders and night orders clearly defined?
5. Are charts and other nautical publications updated with the latest Notice to Mariners or other media?
6. Are all charts in use appropriate for the area?
7. Are VHF, weather facsimile and radio apparatus in full working order?

### **3. ENGINE ROOM AND STEERING GEAR**

1. Are main engine and all auxiliary machinery in full working order?
2. Are engine room emergency shut-off devices and alarm systems operational and clearly marked?
3. Are condition of emergency generator and batteries satisfactory?
4. Is emergency steering system tested regularly?
5. Are spare parts sufficiently supplied?

### **4. LIFE-SAVING AND FIRE-FIGHTING**

1. Are life boats, life rafts and other life-saving equipments maintained in good condition?
2. Are fire pumps, emergency fire pump, fire detector and CO<sub>2</sub> fire extinguishing system ready to use?
3. Are portable fire extinguishers in a term of validity?
4. Are fire hoses / nozzles / lines and CO<sub>2</sub> lines maintained in good condition?
5. Are fireman's outfits, emergency doors and FO tanks shut-off device ready to use?
6. Are lifeboat drill including engine test and fire drill held regularly?
7. Are all the crew familiar with their own duties in case of emergency?

## **5. MOORING EQUIPMENT**

1. Are windlasses, anchors and cables in good condition?
2. Are mooring winches, ropes (including messenger and stopper rope), wires, fairleaders and rollers in good condition?
3. Are steam / hydraulic pipes connecting to windlasses or mooring winches in good condition?
4. Are spare mooring ropes and wires available?

## **6. CARGO GEARS**

1. Is safe working load clearly marked on all equipment?
2. Are necessary certificates available?
3. Are wires in good condition?
4. Are interconnection valves between tanks or between pipe lines properly maintained?
5. Are cargo pumps, crude oil washing machine and inert gas system in good condition?
6. Are pressure / vacuum valves, hydraulic valves and sounding system of tanker in good condition?
7. Are container lashing gears correctly supplied and maintained?

## **7. OIL POLLUTION**

1. Are written procedures for loading and discharging cargo oil and loading bunker oil provided?
2. Is there a contingency plan to limit pollution effects?
3. Are suitable spill containers available around the vents of fuel / diesel oil tanks?
4. Can all scuppers be plugged effectively?
5. Are hydraulic lines and machinery free of oil leakage?
6. Is the vessel ready for dealing with small oil spill?
7. Is engine room bilge separator in good condition?
8. Are oil record books updated, and signed properly?

## **8. SEAWORTHINESS**

1. Are cargo hatch covers and accessories maintained satisfactorily, and is water-tightness secured?
2. Are other deck openings water-tight and properly protected?
3. Are cargo holds / tanks (including connecting lines) maintained and cleaned satisfactorily?  
(shell plate, frame, bulkhead, tanktop, sounding pipe, coating, ladder, bilge, heating pipe, etc.)
4. Are ballast tanks maintained satisfactorily?
5. Is cargo hold refrigerating system in full working condition?
6. Is proper GM maintained through the voyage?
7. Is special attention paid to loading, stowing and securing of cargo in order to prevent shifting or collapse of cargo which directly affect the stability of the ship?

8. Is enough bunker possessed for the voyage?

**9. GENERAL SAFETY**

1. Are fire control plan, safety signs and other cautions prominently displayed?
2. Are dangerous projections marked with precautionary paint?
3. Are safety suits, helmets, shoes, eye protectors, safety torches, safety instruments, oxygen meters and such supplied sufficiently?
4. Is lighting adequate and its wiring in good condition?
5. Are decks and gangway free from slippery substances?
6. Is safety net rigged properly on gangway?
7. With respect to safety checking of working place before commencement of work;
  - a) Are a look-out man and life buoy arranged during work outside the bulwark?
  - b) Are plates and ropes of boatswain's chair, etc in good condition?
  - c) Are safety belts in good condition?
  - d) Are tank / void entry procedures laid down?

Form AA

**STANDARD FORM LETTER OF INDEMNITY TO BE GIVEN IN RETURN FOR DELIVERING CARGO WITHOUT PRODUCTION OF THE ORIGINAL BILL OF LADING INCORPORATING A BANK'S AGREEMENT TO JOIN IN THE LETTER OF INDEMNITY**

---

[insert date]

To : [insert name of Owners]  
The Owners of the [insert name of ship]  
[insert address]

Dear Sirs

Ship: [insert name of ship]  
Voyage: [insert load and discharge ports as stated in the bill of lading]  
Cargo: [insert description of cargo]  
Bill of lading: [insert identification numbers, date and place of issue]

The above cargo was shipped on the above ship by [insert name of shipper] and consigned to [insert name of consignee or party to whose order the bill of lading is made out, as appropriate] for delivery at the port of [insert name of discharge port stated in the bill of lading] but the bill of lading has not arrived and we, [insert name of party requesting delivery], hereby request you to deliver the said cargo to [insert name of party to whom delivery is to be made] at [insert place where delivery is to be made] without production of the original bill of lading.

In consideration of your complying with our above request, we hereby agree as follows :-

1. To indemnify you, your servants and agents and to hold all of you harmless in respect of any liability, loss, damage or expense of whatsoever nature which you may sustain by reason of delivering the cargo in accordance with our request.
2. In the event of any proceedings being commenced against you or any of your servants or agents in connection with the delivery of the cargo as aforesaid, to provide you or them on demand with sufficient funds to defend the same.



3. If, in connection with the delivery of the cargo as aforesaid, the ship, or any other ship or property in the same or associated ownership, management or control, should be arrested or detained or should the arrest or detention thereof be threatened, or should there be any interference in the use or trading of the vessel (whether by virtue of a caveat being entered on the ship's registry or otherwise howsoever), to provide on demand such bail or other security as may be required to prevent such arrest or detention or to secure the release of such ship or property or to remove such interference and to indemnify you in respect of any liability, loss, damage or expense caused by such arrest or detention or threatened arrest or detention or such interference, whether or not such arrest or detention or threatened arrest or detention or such interference may be justified.
4. If the place at which we have asked you to make delivery is a bulk liquid or gas terminal or facility, or another ship, lighter or barge, then delivery to such terminal, facility, ship, lighter or barge shall be deemed to be delivery to the party to whom we have requested you to make such delivery.
5. As soon as all original bills of lading for the above cargo shall have come into our possession, to deliver the same to you, or otherwise to cause all original bills of lading to be delivered to you, whereupon our liability hereunder shall cease.
6. The liability of each and every person under this indemnity shall be joint and several and shall not be conditional upon your proceeding first against any person, whether or not such person is party to or liable under this indemnity.
7. This indemnity shall be governed by and construed in accordance with [English law] and each and every person liable under this indemnity shall at your request submit to the jurisdiction of [the High Court of Justice of England].

Yours faithfully

For and on behalf of

[*insert name of Requestor*]

The Requestor

.....  
Signature

We, [*insert name of the Bank*], hereby agree to join in this Indemnity providing always that the Bank's liability:-

1. shall be restricted to payment of specified sums of money demanded in relation to the Indemnity (and shall not extend to the provision of bail or other security)
2. shall be to make payment to you forthwith on your written demand in the form of a signed letter certifying that the amount demanded is a sum due to be paid to you under the terms of the Indemnity and has not been paid to you by the Requestor or is a sum which represents monetary compensation due to you in respect of the failure by the Requestor to fulfil its obligations to you under the Indemnity. For the avoidance of doubt the Bank hereby confirms that:-
  - (a) such compensation shall include, but not be limited to, payment of any amount up to the amount stated in proviso 3 below in order to enable you to arrange the provision of security to release the ship (or any other ship in the same or associated ownership, management or control) from arrest or to prevent any such arrest or to prevent any interference in the use or trading of the ship, or other ship as aforesaid, and
  - (b) in the event that the amount of compensation so paid is less than the amount stated in proviso 3 below, the liability of the Bank hereunder shall continue but shall be reduced by the amount of compensation paid.
3. shall be limited to a sum or sums not exceeding in aggregate [*insert currency and amount in figures and words*]
4. subject to proviso 5 below, shall terminate on [*date six years from the date of the Indemnity* (the 'Termination Date')], except in respect of any demands for payment received by the Bank hereunder at the address indicated below on or before that date.
5. shall be extended at your request from time to time for a period of two calendar years at a time provided that:-
  - a) the Bank shall receive a written notice signed by you and stating that the Indemnity is required by you to remain in force for a further period of two years, and
  - b) such notice is received by the Bank at the address indicated below on or before the then current Termination Date.

Any such extension shall be for a period of two years from the then current Termination Date and, should the Bank for any reason be unwilling to extend

the Termination Date, the Bank shall discharge its liability by the payment to you of the maximum sum payable hereunder (or such lesser sum as you may require).

However, in the event of the Bank receiving a written notice signed by you, on or before the then current Termination Date, stating that legal proceedings have been commenced against you as a result of your having delivered the said cargo as specified in the Indemnity, the Bank agrees that its liability hereunder will not terminate until receipt by the Bank of your signed written notice stating that all legal proceedings have been concluded and that any sum or sums payable to you by the Requestor and/or the Bank in connection therewith have been paid and received in full and final settlement of all liabilities arising under the Indemnity.

6. shall be governed by and construed in accordance with the law governing the Indemnity and the Bank agrees to submit to the jurisdiction of the court stated within the Indemnity.

It should be understood that, where appropriate, the Bank will only produce and deliver to you all original bills of lading should the same come into the Bank's possession, but the Bank agrees that, in that event, it shall do so.

The Bank agrees to promptly notify you in the event of any change in the full details of the office to which any demand or notice is to be addressed and which is stated below and it is agreed that you shall also promptly notify the Bank in the event of any change in your address as stated above.

Please quote the Bank's Indemnity Ref ..... in all correspondence with the Bank and any demands for payment and notices hereunder.

Yours faithfully

For and on behalf of

*[insert name of bank]*

*[insert full details of the office to which any demand or notice is to be addressed]*

.....

Signature

Form BB

**STANDARD FORM LETTER OF INDEMNITY TO BE GIVEN IN RETURN FOR DELIVERING CARGO AT A PORT OTHER THAN THAT STATED IN THE BILL OF LADING INCORPORATING A BANK'S AGREEMENT TO JOIN IN THE LETTER OF INDEMNITY**

---

[insert date]

To : [insert name of Owners]  
The Owners of the [insert name of ship]  
[insert address]

Dear Sirs

Ship: [insert name of ship]  
Voyage: [insert load and discharge ports as stated in the bill of lading]  
Cargo: [insert description of cargo]  
Bill of lading: [insert identification number, date and place of issue]

The above cargo was shipped on the above ship by [insert name of shipper] and consigned to [insert name of consignee or party to whose order the bill of lading is made out, as appropriate] for delivery at the port of [insert name of discharge port stated in the bill of lading] but we, [insert name of party requesting substituted delivery], hereby request you to order the ship to proceed to and deliver the said cargo at [insert name of substitute port or place of delivery] against production of at least one original bill of lading.

In consideration of your complying with our above request, we hereby agree as follows :-

1. To indemnify you, your servants and agents and to hold all of you harmless in respect of any liability, loss, damage or expense of whatsoever nature which you may sustain by reason of the ship proceeding and giving delivery of the cargo against production of at least one original bill of lading in accordance with our request.

2. In the event of any proceedings being commenced against you or any of your servants or agents in connection with the ship proceeding and giving delivery of the cargo as aforesaid, to provide you or them on demand with sufficient funds to defend the same.
3. If, in connection with the delivery of the cargo as aforesaid, the ship, or any other ship or property in the same or associated ownership, management or control, should be arrested or detained or should the arrest or detention thereof be threatened, or should there be any interference in the use or trading of the vessel (whether by virtue of a caveat being entered on the ship's registry or otherwise howsoever), to provide on demand such bail or other security as may be required to prevent such arrest or detention or to secure the release of such ship or property or to remove such interference and to indemnify you in respect of any liability, loss, damage or expense caused by such arrest or detention or threatened arrest or detention or such interference, whether or not such arrest or detention or threatened arrest or detention or such interference may be justified.
4. The liability of each and every person under this indemnity shall be joint and several and shall not be conditional upon your proceeding first against any person, whether or not such person is party to or liable under this indemnity.
5. This indemnity shall be governed by and construed in accordance with [English law] and each and every person liable under this indemnity shall at your request submit to the jurisdiction of [the High Court of Justice of England].

Yours faithfully

For and on behalf of

[*insert name of Requestor*]

The Requestor

.....  
Signature

We, [*insert name of the Bank*], hereby agree to join in this Indemnity providing always that the Bank's liability:-

1. shall be restricted to payment of specified sums of money demanded in relation to the Indemnity (and shall not extend to the provision of bail or other security)

2. shall be to make payment to you forthwith on your written demand in the form of a signed letter certifying that the amount demanded is a sum due to be paid to you under the terms of the Indemnity and has not been paid to you by the Requestor or is a sum which represents monetary compensation due to you in respect of the failure by the Requestor to fulfil its obligations to you under the Indemnity. For the avoidance of doubt the Bank hereby confirms that:-
  - (a) such compensation shall include, but not be limited to, payment of any amount up to the amount stated in proviso 3 below in order to enable you to arrange the provision of security to release the ship (or any other ship in the same or associated ownership, management or control) from arrest or to prevent any such arrest or to prevent any interference in the use or trading of the ship, or other ship as aforesaid, and
  - (b) in the event that the amount of compensation so paid is less than the amount stated in proviso 3 below, the liability of the Bank hereunder shall continue but shall be reduced by the amount of compensation paid.
3. shall be limited to a sum or sums not exceeding in aggregate [*insert currency and amount in figures and words*]
4. subject to proviso 5 below, shall terminate on [*date six years from the date of the Indemnity (the 'Termination Date')*], except in respect of any demands for payment received by the Bank hereunder at the address indicated below on or before that date.
5. shall be extended at your request from time to time for a period of two calendar years at a time provided that:-
  - a) the Bank shall receive a written notice signed by you and stating that the Indemnity is required by you to remain in force for a further period of two years, and
  - b) such notice is received by the Bank at the address indicated below on or before the then current Termination Date.

Any such extension shall be for a period of two years from the then current Termination Date and, should the Bank for any reason be unwilling to extend the Termination Date, the Bank shall discharge its liability by the payment to you of the maximum sum payable hereunder (or such lesser sum as you may require).

However, in the event of the Bank receiving a written notice signed by you, on or before the then current Termination Date, stating that legal proceedings have been commenced against you as a result of your having delivered the said cargo as specified in the Indemnity, the Bank agrees that its liability hereunder will not terminate until receipt by the Bank of your signed written notice stating that all legal proceedings have been concluded and that any sum or sums payable to you by the Requestor and/or the Bank in connection therewith have been paid and received in full and final settlement of all liabilities arising under the Indemnity.

6. shall be governed by and construed in accordance with the law governing the Indemnity and the Bank agrees to submit to the jurisdiction of the court stated within the Indemnity.

It should be understood that, where appropriate, the Bank will only produce and deliver to you all original bills of lading should the same come into the Bank's possession, but the Bank agrees that, in that event, it shall do so.

The Bank agrees to promptly notify you in the event of any change in the full details of the office to which any demand or notice is to be addressed and which is stated below and it is agreed that you shall also promptly notify the Bank in the event of any change in your address as stated above.

Please quote the Bank's Indemnity Ref ..... in all correspondence with the Bank and any demands for payment and notices hereunder.

Yours faithfully

For and on behalf of

*[insert name of bank]*

*[insert full details of the office to which any demand or notice is to be addressed]*

.....

Signature

Form CC

STANDARD FORM LETTER OF INDEMNITY TO BE GIVEN IN RETURN FOR DELIVERING CARGO AT A PORT OTHER THAN THAT STATED IN THE BILL OF LADING AND WITHOUT PRODUCTION OF THE ORIGINAL BILL OF LADING INCORPORATING A BANK'S AGREEMENT TO JOIN IN THE LETTER OF INDEMNITY

---

[insert date]

To : [insert name of Owners]  
The Owners of the [insert name of ship]  
[insert address]

Dear Sirs

Ship: [insert name of ship]  
Voyage: [insert load and discharge ports as stated in the bill of lading]  
Cargo: [insert description of cargo]  
Bill of lading: [insert identification number, date and place of issue]

The above cargo was shipped on the above ship by [insert name of shipper] and consigned to [insert name of consignee or party to whose order the bills of lading are made out, as appropriate] for delivery at the port of [insert name of discharge port stated in the bills of lading] but we, [insert name of party requesting substituted delivery], hereby request you to order the vessel to proceed to and deliver the said cargo at [insert name of substitute port or place of delivery] to [insert name of party to whom delivery is to be made] without production of the original bill of lading.

In consideration of your complying with our above request, we hereby agree as follows :-

1. To indemnify you, your servants and agents and to hold all of you harmless in respect of any liability, loss, damage or expense of whatsoever nature which you may sustain by reason of the ship proceeding and giving delivery of the cargo in accordance with our request.



2. In the event of any proceedings being commenced against you or any of your servants or agents in connection with the ship proceeding and giving delivery of the cargo as aforesaid, to provide you or them on demand with sufficient funds to defend the same.
3. If, in connection with the delivery of the cargo as aforesaid, the ship, or any other ship or property in the same or associated ownership, management or control, should be arrested or detained or should the arrest or detention thereof be threatened, or should there be any interference in the use or trading of the vessel (whether by virtue of a caveat being entered on the ship's registry or otherwise howsoever), to provide on demand such bail or other security as may be required to prevent such arrest or detention or to secure the release of such ship or property or to remove such interference and to indemnify you in respect of any liability, loss, damage or expense caused by such arrest or detention or threatened arrest or detention or such interference, whether or not such arrest or detention or threatened arrest or detention or such interference may be justified.
4. If the place at which we have asked you to make delivery is a bulk liquid or gas terminal or facility, or another ship, lighter or barge, then delivery to such terminal, facility, ship, lighter or barge shall be deemed to be delivery to the party to whom we have requested you to make such delivery.
5. As soon as all original bills of lading for the above cargo shall have come into our possession, to deliver the same to you, or otherwise to cause all original bills of lading to be delivered to you.
6. The liability of each and every person under this indemnity shall be joint and several and shall not be conditional upon your proceeding first against any person, whether or not such person is party to or liable under this indemnity.
7. This indemnity shall be governed by and construed in accordance with [English law] and each and every person liable under this indemnity shall at your request submit to the jurisdiction of [the High Court of Justice of England].

Yours faithfully

For and on behalf of

*[insert name of Requestor]*

The Requestor

.....

Signature

We, [*insert name of the Bank*], hereby agree to join in this Indemnity providing always that the Bank's liability:-

1. shall be restricted to payment of specified sums of money demanded in relation to the Indemnity (and shall not extend to the provision of bail or other security)
2. shall be to make payment to you forthwith on your written demand in the form of a signed letter certifying that the amount demanded is a sum due to be paid to you under the terms of the Indemnity and has not been paid to you by the Requestor or is a sum which represents monetary compensation due to you in respect of the failure by the Requestor to fulfil its obligations to you under the Indemnity. For the avoidance of doubt the Bank hereby confirms that:-
  - (a) such compensation shall include, but not be limited to, payment of any amount up to the amount stated in proviso 3 below in order to enable you to arrange the provision of security to release the ship (or any other ship in the same or associated ownership, management or control) from arrest or to prevent any such arrest or to prevent any interference in the use or trading of the ship, or other ship as aforesaid, and
  - (b) in the event that the amount of compensation so paid is less than the amount stated in proviso 3 below, the liability of the Bank hereunder shall continue but shall be reduced by the amount of compensation paid.
3. shall be limited to a sum or sums not exceeding in aggregate [*insert currency and amount in figures and words*]
4. subject to proviso 5 below, shall terminate on [*date six years from the date of the Indemnity* (the 'Termination Date')], except in respect of any demands for payment received by the Bank hereunder at the address indicated below on or before that date.
5. shall be extended at your request from time to time for a period of two calendar years at a time provided that:-
  - a) the Bank shall receive a written notice signed by you and stating that the Indemnity is required by you to remain in force for a further period of two years, and
  - b) such notice is received by the Bank at the address indicated below on or

before the then current Termination Date.

Any such extension shall be for a period of two years from the then current Termination Date and, should the Bank for any reason be unwilling to extend the Termination Date, the Bank shall discharge its liability by the payment to you of the maximum sum payable hereunder (or such lesser sum as you may require).

However, in the event of the Bank receiving a written notice signed by you, on or before the then current Termination Date, stating that legal proceedings have been commenced against you as a result of your having delivered the said cargo as specified in the Indemnity, the Bank agrees that its liability hereunder will not terminate until receipt by the Bank of your signed written notice stating that all legal proceedings have been concluded and that any sum or sums payable to you by the Requestor and/or the Bank in connection therewith have been paid and received in full and final settlement of all liabilities arising under the Indemnity.

6. shall be governed by and construed in accordance with the law governing the Indemnity and the Bank agrees to submit to the jurisdiction of the court stated within the Indemnity.

It should be understood that, where appropriate, the Bank will only produce and deliver to you all original bills of lading should the same come into the Bank's possession, but the Bank agrees that, in that event, it shall do so.

The Bank agrees to promptly notify you in the event of any change in the full details of the office to which any demand or notice is to be addressed and which is stated below and it is agreed that you shall also promptly notify the Bank in the event of any change in your address as stated above.

Please quote the Bank's Indemnity Ref ..... in all correspondence with the Bank and any demands for payment and notices hereunder.

Yours faithfully

For and on behalf of

*[insert name of bank]*

*[insert full details of the office to which any demand or notice is to be addressed]*

.....

Signature