

AA TALK

MORE ABOUT POLLUTION CLAIMS

Following a vessel with cargo on board running aground shortly after leaving the loading port:

- The local port authority sends out anti-pollution craft in case there is any escape of oil;
- The anti-pollution craft cleans up some bunker oil that escapes;
- Extra crafts are sent to the vessel to standby during refloating operations in case of pollution arising there from;
- Extra expenses are incurred cleaning up oil that escapes as a result of refloating damage;
- The vessel is refloated and needs to go into a nearby port for common safety and to effect repairs necessary for the safe prosecution of the voyage - the port authority insists that pollution control vessels standby while she is in the harbour;
- While in the harbour awaiting repairs, some oil seeps out from an area damaged by the grounding and extra costs are incurred cleaning it up;
- Some further oil seeps out in as a result of the refloating damage.

Furthermore, assume that as a result of the stranding, the vessel's shell plating is holed and that certain of the double bottom tanks are ruptured, including some tanks containing fuel oil. For so long as the vessel remains afloat, this oil will not escape, but as soon as she is dry-docked and clear of the water, some escape of oil is apparently inevitable. The vessel dry-docks as she is and as a precaution against any of the oil getting into the basin itself, a boom is placed around the dry-dock and in an attempt to keep the oil seepage as low as possible, the holed double bottom tanks are pumped out into the deep tanks as the water level in the dry-dock is lowered. The latter precaution is largely unsuccessful owing to the fact that the vessel's piping is damaged. When the water level drops below the top of the keel blocks, a heavy deposit of oil occurs and this covers the entire dry-dock bottom and runs over the ends of the dock. A considerable quantity escapes the boom and flows into the basin itself. As a result, the following costs are incurred:

- Costs of precautionary measures designed to minimize oil contamination;
- Costs of cleaning up oil spillage in the dry-dock;
- Costs of cleaning up oil spillage from the basin;
- Costs of cleaning other vessels which are in the basin and the hulls of which are contaminated by oil.

General Average - It is considered that the costs of measures taken under items 3 and 5 would be

allowable in general average where the contract of affreightment provides for adjustment per York-Antwerp Rules 1994, the specific rule in support of such allowances being Rule XI(d). Regarding item 1, the determining factor is whether the initial oil pollution response and control actually carried out following the grounding are within the broad spectrum of the steps that might have been taken by a salvor acting in accordance with Art.13 of the Salvage Convention. None of the activities under items 2, 4, 6 and 7 justify any allowance in general average in terms of the York/Antwerp Rules 1994.

Reasonable cost of repairs – It is submitted that the method adopted being a practical and reasonable way of doing so, the costs incurred under items 8 and 9 form an inevitable part of the cost of adopting that method allowable as part of the reasonable cost of repairs. It does not appear that the contamination of the basin itself is unavoidable, there being a fresh accident which results in costs being incurred (under items 10 and 11) to avoid a potential liability to third parties. It is not considered that such costs can be regarded as flowing from the need to repair the stranding damage or as forming part cost thereof.

It is suggested that subject to the terms of the cover, the above-mentioned costs falling outside the scope of general average and/or particular average, may form a claim on the P&I Club or Liability Underwriters.

Cat Fines Pack

The issue of machinery damage caused by high cat fine content in bunker fuel has been discussed for some years now. A working group of the Joint Hull Committee has produced a [cat fines pack](#) for the consideration of hull insurers, which information can be accessed from the [Joint Hull Committee page](#) of the LMA website:

http://www.lmalloyds.com/LMA/Underwriting/Marine/Joint_Hull_Committee/Web/market_places/marine/JHC/Joint_Hull.aspx

New Edition of Lowndes

The 14th edition of Lowndes & Rudolf on “General Average and York-Antwerp Rules” has been published, only 5 years after the previous one in 2008, there being apparently little note-worthy happenings relevant to general average in between. It is however worth noting that the 14th edition of this “bible” on general average is the first to be available to subscribers online.

“Professional Diploma in Shipping & Logistics Management” (QF4)

The programme, jointly organized by City University of Hong Kong SCOPE and Institute of Seatransport, covers a wide range of practical shipping disciplines (consisting of 8 modules of 39-hour each), which aims to equip students with an in-depth understanding of shipping and

logistics from a global and management prospective, responding to the professional qualifying examination (PQE) of the Institute of Chartered Shipbrokers (ICS) and the Chartered Institute of Logistics & Transport in Hong Kong (CILTHK). Graduates shall be granted the provisional partial exemption of 3 PQE of the CILTHK:

1. OL1 Business Environment for transport and Logistics
2. AL1 Law of Business and Carriage
3. AL3 Transport system and Management

The programme will commence on 3rd July 2014; for further details and application form, please visit www.cityu.edu.hk/ce/pdlog

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Average Adjuster