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The Framework For Canada-China Cooperation On Arctic Shipping And The Development Of The Arctic Area

粵港澳大灣區建設給香港航運帶來的發展機遇





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Adolf K.Y. Ng

The unprecedented rate of ice melt has paved way for increased shipping activities in the Arctic, thanks to its perceived natural resource reserves and shorter inter-continental sailing distancer. Even non-Arctic countries are showing their interests, where China has made the Arctic a key pillar of its Belt & Road Initiatives (BRI), such as the 'Ice Silk Road' concept in 2018. In fact, China even published a guidebook for cargo ships navigating through the Northwest Passage (NWP). Nevertheless, we are yet fully prepared in opening the Arctic area.

This is also true for Canada. In the past decade, vessels that sailed through Canadian waters in the Arctic area have risen from 86 in 2009 to 125 in 2018. Indeed Canada's (relatively) unexplored territorial north possesses substantial potential. Here one should note that developing the Arctic, including shipping, is not only a technical, operational question. It is also a regional question that affects local economy and population, especially indigenous people, and that the involvement of both operational stakeholders (e.g., ship operators) and regional right holders (e.g., indigenous communities) is compulsory. Indeed, there are hints that Canada finally takes the initiatives to develop its Arctic policy. For instance, the Honorable Bill Morneau, the Minister of Finance, has earmarked more than \$700 million over a decade for Canada's Arctic and northern communities' initiatives. Indeed, tackling the gap infrastructure deficit in Canada's north is corresponding to Prime Minister Justin Trudeau's 2016 commitment to co-develop the Arctic and Northern Policy Framework with local residents and stakeholders. At the same time, large-scale researches on the impacts of shipping activities on the socioeconomic environment in northern Canada. including local (indigenous) communities, are taking place. The genomics and socioeconomic research projects in preparedness and emergency response in the Arctic that involves collaboration between scholars from diversified disciplines in several Canadian universities (e.g., University of Manitoba, University of Calgary, McGill University) and public agents (e.g., see genice.ca and ccapptia.com) serves as a schematic exposition. However, it is still in its embryonic stage and the country still has much catching-up to do with its Arctic counterparts.

Despite such efforts, there is still a lack of solid cooperative framework between different countries in developing the Arctic, including shipping. Such a framework is more fragile between Arctic and non-Arctic countries (e.g., Canada-China) where substantial differences and misunderstandings exist between them. Some initiatives are already taking place but far from being completed. This illustrates that there are still many challenges in opening up the Canadian Arctic, but simultaneously indicate the numerous opportunities that scholars, policymakers, and industrial practitioners from Canada and China can work together to open up the Arctic area and improve the wellbeing of the world. The following are a number of suggestions on how to kickstart a Canada-China cooperative framework on the Arctic:

- 1 Governance: Canada and China should establish a bilateral framework on how a 'sustainable Sino-Canadian Arctic supply chain' can/should be developed and governed. The framework should address key issues of mutual interests, such as (but not limited to): (i) identify strategic resources in the Arctic that are pivotal for the well-being of Canada and the Asia-Pacific region; (ii) find ways to ensure that local, especially indigenous, communities in northern Canada can be involved and benefited from this process. This requires a fundamental understanding on how Arctic shipping would affect both global supply chains and regional well-being. It is also a great opportunity to investigate the possibility on how the BRI philosophy can be integrated and fit into the Canadian, especially northern, political agenda.
- 2. *Specialization:* Recognize that different Arctic passages (notably NWP, Northern Sea Route, ad Trans-Polar Route) have fundamental differences

and so 'specialization' is the best way forward. Given the physical and socioeconomic characteristics of the area, as well as the fundamental differences of planning systems between different Arctic countries (e.g., Canada vs. Russia), an 'one-size-fits-all' solution to Arctic shipping and development is not the best approach and the Canadian Arctic area, as well as all other Arctic areas, should only focus on particular sectors. Recognizing such, it means that we must be 'selective' in terms of what and how much resources that should be committed to develop the Canadian Arctic.

3. Capacity Building: Canada and China should jointly build the capacity (e.g., jointly establish a research and education institute, an institution similar to the UN's World Maritime University) specializing on bilateral collaborative research, education, and training for Arctic experts, specialists, and other relevant personnel. The objective of the institute should be to train relevant high-quality personnel who understand the interests and problems of jointly developing the Arctic, hereby possessing the expertise knowledge and skills in developing sound solutions in addressing such challenges. Also, the establishment of a high-level joint council/forum that facilitates the continuous exchange of scholars, policymakers, and practitioners from Canada and China on this area will be highly desirable. In this case, it is highly important for any Chinese (and other expatriate) stakeholders taking part in Arctic shipping and development to understand the significance and importance of 'regional' factors and appreciate the idea of jointly working with local communities to develop the most appropriate solutions. Such newly-established educational establishments must be able to deliver this need.

4. The Need of a Vision: There is a need for Canadian policymakers and the northern communities to develop a clear vision on the future roles of the Arctic area, including its longterm connections with the global economy. As any infrastructure investments in this area would cause long-term impacts, it is important that both policymakers and regional right holders are clear on how they want to re-shape the Arctic area through shipping. By doing so, it sends clearer messages on what types of investments are required, thus catalyzing China in playing more meaningful roles to help Canada and its northern communities to achieve such a vision.

(Adolf K.Y. Ng:

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ICSHK Column - Enclosed Spaces – Dangers and Precautions

Sharad Gupta

Enclosed spaces are spaces that have any of the following characteristics:

- limited openings for entry and exit
- inadequate ventilation
- not designed for continuous worker occupancy.

The atmosphere in any enclosed space may be oxygen-deficient or oxygenenriched and/or contain flammable and/ or toxic gases or vapours, thus presenting a risk to life.



Enclosed spaces include, but are not limited to, cargo spaces, double bottoms, fuel tanks, ballast tanks, cargo pump-rooms, cofferdams, chain lockers, void spaces, duct keels, inter-barrier spaces, boilers, engine crankcases, engine scavenge air receivers, sewage tanks, and adjacent connected spaces. An enclosed space may include a deck area that due to its construction and location has poor or limited access and where a dangerous atmosphere may accumulate. The list is not exhaustive and enclosed spaces should be identified and listed on a ship-by-ship basis.

According to industry statistics, there have been a total of 145 casualties related to enclosed space entry in the past 20 years, and 28 in the past 16 months!

This has led to an ever increasing need to focus on Enclosed Space entry procedures. Authorities have taken the lead - various Port State MOUs ran Concentrated Inspection Campaigns on this issue during the past few years, the latest being Riyadh MOU in 2017.

IMO brought in a new regulation aimed at protecting seafarers who need to enter enclosed spaces, by requiring ships to carry portable atmosphere testing equipment on board, which entered into force on 1 July 2016.

The new regulation XI-1/7 Atmosphere testing instrument for enclosed spaces in the International Convention for the Safety of Life at Sea (SOLAS), requires ships to carry an appropriate portable atmosphere testing instrument or instruments, capable, as a minimum, of measuring concentrations of oxygen, flammable gases or vapours, hydrogen sulphide and carbon monoxide, prior to entry into enclosed spaces. Since an exhaustive discussion on the subject is beyond the scope of this article, this is a brief review of the hazards and procedures involved.

Enclosed Space Hazards can be divided into four main categories:

1. Hazardous Atmosphere – Often misunderstood, this includes following:

- Oxygen Enriched or Oxygen Depleted

 lack of <u>correct level</u> of oxygen is one of the most dangerous factors in enclosed spaces. A person can survive for only 3 minutes without oxygen, the reasons why oxygen levels can't degrees below safe far fire hot work paint drying biological reactions etc. On the other hand, if oxygen level is above 23.5% this is considered oxygen enriched atmosphere and can cause flammable materials to burn violently when ignited.
- Presence of toxic gases is the most ignored factor while checking enclosed space atmosphere gases such as carbon monoxide hydrogen sulfide can be life threatening in concentrations as low as 100 PPM. sources of such gases are leaked gas cylinders, paints, welding electrolytic reactions, etc
- Flammable atmosphere often measured in lower flammability limits LFL represent concentrations of oxygen of flammable gas Which in the presence of oxygen and resource of ignition can lead to an explosion.

Dust in high concentration is also a health hazard, leading to breathing difficulties, poor visibility and even eye damage. Further, toxic dust such as from asbestos etc can be downright dangerous.

2. Physical Hazard – Most obvious is the presence of trip and fall hazards not properly considered in the risk assessment. These consist of pipelines, ventilation ducts, ladders, railing as well as openings not properly marked off.

3. Changing Conditions – Conditions within an enclosed space can change from the time of initial assessment. Such changes can include water ingress, oxygen depletion, ventilation failure, release of toxic vapours etc. These, as obvious from the examples, may be dependent not only on the space in question itself but activities going on in any of the adjacent or surrounding areas. Hence any risk assessment has to have an overview and consider all such possibilities.

4. Engulfment – Simply put, its drowning or trapping / suffocation by falling material. Loose material such as grain, crumbling under a persons weight are a typical example.

In view of the variety of hazards present, a comprehensive and casespecific risk assessment is an absolute must prior any entry into an enclosed space. The subsequent Entry Procedures should include the following precautions:

- No one should be allowed to enter an enclosed space if they are not considered physically fit
- 2. No person should be allowed to enter without <u>express authorization</u> from Master or Responsible Person.
- 3. An <u>approved entry permit</u> system must be used
- 4. Ventilation must be stopped for the period when atmosphere testing is in progress, and then resumed after testing for full duration of the entry failure of ventilation calls for immediate evacuation of the space till replacement ventilation as well as test of atmosphere has been duly arranged.
- 5. Personal meters are not appropriate for carrying out pre-entry testing; <u>suitable, calibrated instruments</u> should be used for this critical purpose.
- 6. Testing should be carried out frequently whilst the space is occupied.
- 7. Under no circumstances should the attending crew enter the space before help has arrived and the situation has been evaluated for safety of those entering. Rescue operations must be carried out only by suitably trained and equipped personnel. EEBDs and Respirators are NOT a substitute for a breathing apparatus.

As mentioned earlier in the article, there is renewed focus on the training

aspect of enclosed space entry and quarterly Enclosed Space Drills have been made mandatory since January 2015. To achieve the desired purpose, drill have to be as realistic as possible and include actual use of gear such as dummy, breathing apparatus, communication means, tripods etc as applicable. No amount of table-top exercises can replace the value imparted by real time practical training, and only with active participation of all shipstaff & concerned shore-staff, can we move towards elimination loss of valuable human life.

Acknowledgement: ICS Guidance on Enclosed Space Entry; Standard P&I Club Masters Guide to Enclosed Space Entry.

(Sharad Gupta, after sailing for over 10 years mainly on tankers and attaining the rank of Chief Engineer, worked as a ship manager in Hong Kong for another 10 years before starting on his present endeavour Sygnus Marine HK to provide maritime consultancy, surveying and training.)





粵港澳大灣區建設給香港航運帶來的發展機遇

馮佳培

粤港澳大灣區涵蓋珠三角洲 "9+2"城市,經濟總量躋身全球第三大灣區,區內高科 技產業集聚,自主創新能力強,是典型的科技創新新驅動型灣區。中央政府期望粤港澳大 灣區成為國際區域發展戰略的新佈局、國家整體轉型發展的新動力以及國家提升對外開放 的新門戶。強化廣東作為全國改革開放先行區、經濟發展的重要引擎作用。構建科技、產 業創新中心和先進製造業、現代服務業基礎。鞏固和提升香港國際金融、航運、貿易三大 中心功能,推動專業服務和創新及科技事業發展,建設亞太區國際法律及解決爭議服務中 心等。



	面積 (萬 km2)	人口 (萬)	GDP (億美 元)	人均 GDP 萬 美元	第三產 業 佔比 (%)	GDP 佔 全國比 例 (%)	集裝箱 吞吐量 (萬 TEU)	機場旅 客吞吐 量(億 人次)	世界 100 強 大學數	福布斯 500 強 公司數
東京灣區	3.68	4347	1.80	4.1	82.3	41	766	1.12.	2	60
紐約灣區	1.74	2340	1.40	6.9	89.4	7.7	465	1.3	2	28
舊金山灣區	1.79	715	0.76	9.9	82.8	4.4	227	0.71	3	22
粵港澳 大灣區 (9+2)	5.60	6671	1.36	2.0	62.2	10.8	6520	1.75	4	16

香港具有獨特的區位優勢,平均四小時飛機航程就能直達亞洲主要市場,五小時的飛 機航程就能覆蓋全球逾半數人口。此外,香港還具有制度優勢,"一國兩制"、全球最自 由的經濟體系,與國家緊密的經濟聯繫,司法獨立並使用國際通用的普通法,以及國際公 認的自由港地位,低稅率及簡單稅制,清關簡易便利,港幣可以自由兌換等都是香港獨特 的優勢。

香港在航運方面的優勢也十分明顯,與內地航運有十分密切的聯繫,香港知名的船東 多數來自江浙地區。香港的貿易及物流作為支柱產業,占GDP22%,其中航運物流占3.2%, 在香港經濟發展中不可替代。香港從事航運物流業的人員近17.5萬人,占香港勞動力的 4.6%,提供大量的就業機會。

香港港口是全球最繁忙的港口之一,2018年處理了近2100萬標箱,占香港總貨運量的90%,香港還是天然的深水港、轉運樞紐,香港又是所謂的"補時港口",也就是班輪 在運輸過程中耽誤的時間,可以通過香港高效的裝卸能力得到補償。此外,香港的班輪覆 蓋廣泛頻密,每週320班次,聯繫全球470個目的地。

香港已與40多個國家和地區簽訂了避免雙重課稅的協定。包括一帶一路沿線經濟體國 家和地區及其他經濟體。與航運行業最關心的巴西和澳大利亞等國家的課稅寬免談判也正 在積極進行之中。



香港的海運服務業群包括船舶擁有、 船舶管理、海事保險、海事法律、船舶租 賃、船舶註冊、船級社、船舶維修、海運 設備、船務代理以及船務經紀等。香港有 超過 800 家與海運相關公司,全球 10 大會 計行的其中 7 家在香港設有公司,國際保 賠協會 13 家會員公司中的 12 家在香港設 有公司,香港有近 90 家船舶保險公司,擁 有及管理全球約 9.6% 的商船船隊。

為了推進和發展香港的國際航運中心 地位,香港特區政府于 2016 年成立了海運 港口局,下設海運及港口發展、推廣及外 務及人力資源發展三個委員會。其主要功 能是,協助政府制定海運及港口相關策略 和措施,運作海運及空運人才培訓基金, 推廣港口及海運服務業。該局的另外一項 工作就是,組織和協調一年一度的香港海 運周活動,團結香港海運業界並展示實 力。

香港面臨的合作機遇

香港在粵港澳大灣區建設中扮演十 分重要的角色,也是國家"一帶一路"戰 略的重要支點城市,香港應繼續鞏固和發 展其國際金融、航運、貿易中心的地位, 積極鼓勵國際仲裁及建設解決爭議服務中 心。充分利用香港的區位優勢以及資本運 作、科技教育、研發設計和旅遊休閒的平 臺,構建溝通中西方文化的橋樑,培育文 化創意產業的新優勢。 2017年,國際發改委與香港特區政府 共同簽署了《關於支持香港全面參與和助 力"一帶一路"建設的安排》,香港將扮 演"一帶一路"沿線地區與內地之間的"超 級連絡人",聚焦金融與投資,加強經貿 交流與合作,利用"一帶一路"基礎建設 給航運帶來的機遇,進一步鞏固和發展香 港國際航運中心的地位。而香港行政長官 在其最新的施政報告中提出八項措施,支 持和提升高增值海運服務的發展。

香港海運合作的最大市場還是在粵港 澳大灣區,香港航運界在灣區內的業務發 展,一定會得到中央和地方政府的大力支 持。香港航運界可提出自己的訴求,積極 參與大灣區的港口及海事發展規劃,實現 香港港航產業的轉型升級。在建設成為具 有國際最高標準、最好水準的自由貿易港 的同時,輻射和帶動整個大灣區航運業的 發展,形成一中心(香港)、三平臺(前 海、南沙和橫琴)、三樞紐(香港港、廣 州港和深圳港)的大灣區航運業整體發展 格局,注重與內地在航運業務合作領域的 錯位協同發展,重點推動大灣區航運要素 以香港集聚。

香港還可以考慮與廣州、深圳合作成 立相關服務機構,滿足高端航運服務的需 求,統統探索航運金融創新,發展航運金 融與航運保險。與深圳前海打造海事特色 的仲裁平臺,短期內在珠三角洲實行檢驗 結果互認、費用減免的合作。 香港應在航運人才培訓與交流引進 方面合作,院校合作共同組建高級航運大 學和學院,探索建立獎學金和提供實習制 度,校企合作培養高端航運人才,拓展航 運人才引進管道,推廣前海經驗,支持港 資企業在內地設立船員外派企業,打通內 地船員輸出香港的直接通道。

結論

香港應充分把握優勢,利用粵港澳大 灣區建設帶來的契機,積極與大灣區的其 他城市合作。在此基礎上,可以考慮進一 步積極拓展"一帶一路"沿線國家的航運 及相關服務業務。同時,香港本地的航運 企業應改變觀念,與內地企業一起"走出 去",積極探索在"一帶一路"沿線國家 的港口投資經營,打造全球港口鏈,實現 香港及中國企業協同計畫發展,拓展中國 港口的網路佈局,使香港航運真正融入國 家"一帶一路"戰略和粵港澳大灣區建設。 何恩洪律師行 JAMES HO & CO. Solicitor

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(馮佳培:香港船東會)

Port Selection

As our company is planning to launch a shipping route to create a new logistics business, I have suggested choosing the Port of Charleston as the container port for the newly launched shipping route. The Port of Charleston is located in South Carolina. USA and is one of the busiest container ports in the area. The reason for choosing the Port of Charleston is because it has the deepest harbor in South Carolina and the operational tools of the port allow it to handle container ships longer than 1,100 feet and wider than 150 feet with drafts up to 48 feet. Because of the expansion of the Panama Canal, the Port of Charleston's water depth is being increased from 45 feet with an entrance channel depth of 47 feet to 52 feet with an entrance channel depth of 54 feet, which is estimated to be complete in 2020. After the channel deepening, the port of Charleston will be able to serve more "Post-Panamax" vessels and so our company can consider using these mega vessels in the new shipping route to lower costs by shipping a large volume of containers on one trip. Moreover, the throughput level of the Port of Charleston has been growing the past six months, and now the monthly throughput level exceeds 200,000 TEUs. Comparing August 2018 with August 2017, the number of containers handled by the port this year exceeded last year's volumes by 16 percent, which means that the the port's efficiency is being improved which brings lower time cost benefits to us.

Specialized Warehouse Selection

For the new logistics business, I suggest developing a cotton specialized warehouse. The reason for choosing cotton is because cotton makes up 3% of both imports and exports in the Port of Charleston. Moreover, Charleston also imports yarn from other countries so there is clearly a demand for yarn in Charleston. Inside the specialized warehouse we will provide some value-added services like turning cotton to yarn and packing. To create the new logistics business and generate new revenue, the warehouse design, layout and the operation is very critical.

Warehouse Requirements

As this will be a cotton specialized warehouse, particular requirements are necessary to minimize damage to the cotton when being stored. To begin with, when storing the cotton, it should be well-packed and not stored in a scattered fashion. Secondly, the warehouse needs to be well fireproofed, ventilated, moisture proof and mildew proof. Moreover, both thermometers and hygrometers are needed to tightly control the temperature and humidity. For example, the room temperature of the cotton warehouse should be kept around 30°C and not higher than 35°C, and the relative humidity in the warehouse should not exceed 70%. Furthermore, the moisture content in the stored cotton should not exceed 10%.

Layout Design

Layout Design Plan of Cotton Warehouse



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For the layout design, I suggested using an I-shaped layout as shown above. By setting the inbound area closer to the terminal and the outbound area closer to the road, trucks do not have to drive from one side to another to load or unload the cotton or yarn. Also, as the operation is a straight line from storage to packing with seldom need to reverse the flow, using an I-shape layout could enhance the efficiency of the flow.

Operation

The warehouse is operated in a straight line so as to avoid backtracking and inefficiency. First, trucks that load the container will arrive at the inbound area and will unload the cotton. After that, the cotton is moved by forklift truck to the storage area for temporary storage, and from the storage area, cotton will be transferred to the cotton yarn making machine to produce yarn as a semi-final fabric product. Next, the finished yarn will be moved to the packaging area and is ready to pack. Finally, the packed yarn will be transferred to the outbound area and load on the truck; then the yarn will be transported to different fabric producers in Charleston.

Conclusion

In conclusion, by accomplishing certain warehouse requirements like good temperature and humidity control, having an efficient layout and a fluid flow inside the warehouse, our new shipping route/ logistics business will likely succeed in provide new revenue in the future.

(Leung Ka Sin : Hong Kong Community College, The Hong Kong Polytechnic University.)



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Law Column -Court Finds Defective Passage Plan Rendered Vessel Unseaworthy

Alize 1954 and CMA CGM SA v. Allianz Elementar Versicherungs AG and others (CMA CGM Libra) [2019] EWHC 481 (Admlty)

In this recent judgment, in the context of a claim by Owners for a contribution in General Average ("GA"), the Court considered whether a defective passage plan, prepared prior to the commencement of the voyage, rendered the Vessel unseaworthy. On the facts, it was found that that even though the Owners had in place good safety management practices, the Vessel was unseaworthy on the basis that a prudent owner would not have sent the Vessel to sea with such a defective plan, and that due diligence had not been exercised.

THE BACKGROUND FACTS

On 17 May 2011, the container vessel, CMA CGM Libra ("the Vessel"), grounded shortly after leaving the port of Xiamen in China.

At the time, the Vessel was about four cables west of the buoyed fairway, in an area where the charted depth was over 30m. The fairway through which

Christian Dwyer / Sophie Henniker - Major

the Vessel was navigating prior to the grounding was bordered by areas marked on the chart as "Former Mined Areas", the presence of which were noted in the chart notes and Admiralty Sailing Directions as having inhibited hydrographic surveying and, therefore, potentially containing uncharted wrecks and isolated shoals that posed a danger to deep-drafted vessels. Furthermore, a Notice to Mariners issued just five months prior to the grounding advised mariners that "numerous depths less than the charted exist within, and in the approaches to Xiamen Gang". It also noted that the fairway had a depth of at least 14 metres. A further Notice to Mariners issued in April 2011 also gave specific examples of depths of water outside the fairway being observed to be considerably less than the charted depth.

Prior to departure, as required by the Owners' Safety Management Systems ("SMS"), a passage plan had been prepared by the Second Officer and approved by the Master. Although some non-causative defects were noted on the plan, the fact that the Notice to Mariners identified the existence of shallower depths than those charted in the vicinity of the fairway which were not included on the plan meant that the Judge held that the passage plan was defective: a source of danger was not clearly marked as it ought to have been. In addition, although the Vessel had on board a memorandum issued by the Owners relating to the difficulties in navigating the waters around Xiamen, the passage plan did not mark or identify any "no-go" areas outside the buoyed channel. In the event, the Master decided to depart from the passage plan to navigate outside the buoyed channel; a decision which, on the facts, was found to be negligent.

The Owners claimed some US\$ 13 million in GA. While 92% of the cargo interests paid their contribution in GA, the remaining 8% refused to do so and so the sum claimed in these proceedings amounted to approximately US\$ 800,000. While the Owners said that the cause of the grounding was an uncharted shoal, the cargo interests claimed that the inadequacy of the Vessel's passage plan rendered the Vessel unseaworthy, due diligence had not been exercised, and that, as a result of the unseaworthiness, the Master's navigation was negligent and the grounding caused by the Owners' actionable fault.

THE ADMIRALTY COURT DECISION

Burden of proof

As a preliminary point, the Judge considered the recent decision of the Supreme Court in Volcafe Ltd. V. Cia Sud Americana de Vapores SA [2018] 3 WLR 2087 in relation to the burden of proof. The Supreme Court held in that case that the carrier had the burden of proving that there had been no breach of its obligations under Article III r.2 of the Hague Rules to properly and carefully load, carry and care for the cargo or that the damage had been caused by one of the exceptions. The cargo interests argued that the Owners had the burden of proving that the Vessel was seaworthy under Article III r. 1 or, if it was not, that due diligence had been exercised.

However, the Volcafe decision was distinguished as only being relevant to the burden under Article III r. 2. The Judge held that the conventional view, that under Article III r. 1 the burden lay on cargo interests to establish that the Vessel was unseaworthy and that the unseaworthiness was causative of the grounding, remained good law.

Unseaworthiness and causation

The Judge cited the usual test of seaworthiness set out in the Cape Bonny [2018] 1 Lloyds Rep. 356: whether a prudent owner would have required the relevant defect, had he known of it, to be made good before sending his ship to sea. Under Article III r. 1 of the Hague Rules, the obligation of seaworthiness attaches "before and at the beginning of the voyage".

Counsel for the Owners submitted that passage planning is not an aspect of seaworthiness and instead is an aspect of navigation that takes place prior to the actual passage. It was argued that a oneoff defective passage plan did not amount to unseaworthiness and that a carrier's duty was discharged by putting proper systems in place to ensure that the Master and crew can prepare an adequate passage plan before the beginning of the voyage. The Judge was unable to accept this, holding that the Vessel was unseaworthy at the commencement of the voyage by virtue of the defective passage plan. He stated that concentrating on the actions of the Owners without considering those of their servants confused the issue of seaworthiness with the non-delegable duty of due diligence.

It was held that the defect in the passage plan was causative of the Master's decision to leave the fairway, which in turn caused the grounding.

Obligation of Due Diligence

The cargo interests argued that the Master and Second Officer's negligence in preparing the passage plan amounted to a failure on the part of the Owners to exercise due diligence to make the Vessel seaworthy. The question then arose whether the Master and Second Officer could reasonably have prepared an appropriate passage plan with the exercise of due diligence. The Judge held that they could have done so. The Owners submitted that due diligence had been exercised because the Owners' SMS contained appropriate guidance for passage planning. The obligation to exercise due diligence only concerned things done by the Owners in their capacity as carrier, and not by the crew in preparing the passage plan, which was a matter of navigation.

The Judge made clear that an Owner's SMS must be adequate to secure a finding that due diligence has been exercised. It was recognised that a well-documented SMS is an important tool for defending claims based on unseaworthiness. However, it is not sufficient for an Owner to demonstrate that it has itself exercised due diligence. The non-delegable nature of due diligence means that it must be shown that the servants and agents relied upon by the Owner to make the Vessel seaworthy at the beginning of the voyage must also have exercised due diligence.

COMMENT

The judgment is a further demonstration that the English Courts consider the concept of seaworthiness to be an evolving obligation which is intended to develop in line with the developments in the shipping industry. As Teare J acknowledged, before the need for passage planning to be adopted by "all ships engaged on international voyages was recognised by the IMO 1999 Guidelines for Voyage Planning, it may have been the case that a prudent owner would not have insisted upon the preparation of an adequate passage plan from berth to berth. However, I am confident that by 2011 the prudent Owner would have insisted on the preparation of an adequate plan from berth to berth." It remains to be seen whether the Court's finding on this and other issues will be appealed and, if so, this will be a case to watch.

Significantly, the case breaks new ground and sets a new bar for seaworthiness in finding that a defective passage plan will, of itself, render a vessel unseaworthy if a prudent owner would not have sent the vessel to sea with the relevant defect. It also provides a useful reminder of the non-delegable duty of due diligence. In particular, the decision highlights that even if an owner has in place good SMS practices, the non-delegable duty of due diligence will override it and will not absolve the owner of liability if a crewmember nevertheless fails to follow it or is negligent in its application prior to commencement of the voyage.

We would also make the following observations:

- 1. There is no doubt that, following this judgment, the adequacy of a vessel's passage plan will come under greater scrutiny. In light of the apparent elevation of a passage plan to a document that could render a vessel unseaworthy, some owners may give consideration to ensuring that additional checks are made on the adequacy of passage plans and may wish to consider arranging for the plans to be approved by owners' operations team, as well as by the master prior to a vessel sailing. This may, however, be a challenge in terms of practicality and resources.
- 2. That said, a defective passage plan of itself will not lead to liability if the defect is not causative. The burden

remains on the cargo interests or charterers to demonstrate that any defects in a passage plan are causative of any loss and a careful analysis of causation will still need to be made on a case by case basis. In this regard, it is noteworthy that it may prove important going forward that navigational experts have the requisite experience of operating and working with electronic charts.

- We would suggest that it remains 3. questionable whether the requirement of a berth to berth passage plan is practicable and relevant in every case. The defect in the passage plan in this case concerned the immediate departure from the load port and not arrival at the eventual discharge port. As a matter of practice, it is often the case that a vessel's orders change during the voyage or final orders as to the discharge berth are only provided en route. In those circumstances, an issue will be whether, if a passage plan is completed during the voyage but contains a defect which is causative of a grounding, the negligent navigation defence under Article IV r. 2(a) of the Hague Rules would in fact still be available to an owner (assuming the relevant documents to complete the passage plan are on board).
- 4. This particular grounding occurred during a time of transition from paper to electronic charts. While it was found that the Vessel did have the

means to prepare a non-defective passage plan, the requirement now to carry electronic charts may aid accurate passage planning.

- 5. It is noteworthy that the cargo interests argued a number of other points relating to bridge management, incompetence of the Master and fatigue. These were unsuccessful and this suggests that it remains a challenge for cargo interests to prove such issues, particularly where owners do have adequate systems in place.
- 6. Finally, this case also highlights the importance of obtaining witness evidence immediately after a casualty

and demonstrates that witness evidence given several years after the event has little value in comparison. It also gives an insight into the Admiralty Judge's views on and encouragement of the use of Nautical Assessors for issues of passage planning and navigation in GA cases arising from groundings.

(Christian Dwyer: Global Head Of Admiralty, London Sophie Henniker-Major: Senior Associate, London Ince & Co International Law Firm)



船舶各類速度

經濟速度 ECONOMIC SPEED

壹噸貨物以最低成本運載的速度。兩種矛盾原因考慮決定經濟船速,事實上,「資本」 的責任主宰運輸成本,如船員支出減少,和燃油支出增加。另一因素影響經濟速度而付貨 人有興趣知道其貨物以最少阻礙運輸。

臨界速度 (臨界轉數) CRITICAL SPEED (CRITICAL RPM)

機器的轉數,當與船體的震動期和機器往復部份的慣性運動同步的轉數。

測試航行 (測試速度) TRIAL TRIP (TRIAL SPEED)

為了測試推進機器當全速時的能力和效率,連續以相反方向航行於測速標,測試速度。

上述詞語在 "國際海事字典 International Maritime Dictionary" by Rene de Kerchove 解釋。

最大功率 MAXIMUM RATING

壹柴油機的實際輸出限額當一個或多個下述因素發生:

- 1. 燃油最大百分比可能在汽缸內有效燃燒。
- 2. 機器各部件的壓力在現行機械和熱能條件下達到最高安全水平不斷工作。
- 3. 活塞速度和轉數不能安全地增加。

由這些因素來說,可以說機器最大速度在安全限額下達到。

上述詞語來源於 "Marine Diesel Engine" by C.C. Pounder of NEWNES-BUTTERWORTHS.

機器速度 ENGINE SPEED

機器在某一轉數的力度輸出,因此機器最大速度意指最大功率。

機器速度可用下面公式算出:

 $S = \frac{P x RPM x 60}{1852}$ fit

註: S 機器速度以節為單位 P 車葉螺距以米為單位 RPM 車葉軸每分鐘轉數 60 一小時的分鐘 1852 一海里的米數

失寶 SLIP

機器速度與實際速度的差額百分比。如果沒有風或流水,實速與機器速度相同即沒有失實。

失實定名正百分比如機器速度快過實速。

失實定名負百分比如機器速度慢過實速。

旅遊速度 CRUISING SPEED

船舶在海上的任何速度。例如,客船或巡洋艦巡邏海洋。於客船而言,當船舶航行風景海峽讓乘客欣賞風景,船長可以使用旅遊速度。

服務速度 SERVICE SPEED

由船公司(船東)決定的速度,通常地少過機器最大功率百分比。

舉例,理論上,機器以最大功率120 RPM 在安全情況下達到18節,讓機器安全地運行, 船東會減少 RPM 5%。理論上船長能以最大速度 114 RPM 即 17.1 節控制機器,船東會決 定船舶安全運作,因而決定下列速度:

最大速度:17節

服務速度:15節

平均速度:14節

在這環境下,最大速度與最大速度的最大功率是不同的。

平均速度的名詞主要用於商業交易。

船舶速度 SHIP'S SPEED

主要靠機器馬力輸出如沒有風或流水影響。

實際速度 SPEED OVERGROUND/SPEED MADE GOOD

船舶在風或流水影響下航行真正達到的速度。

計程儀速度 LOG SPEED

船舶用計程儀表示速度,船長和副手用作參考。

下列來源:國際海事組織 IMO

常速船 Normal speed

船速在30節以下。

快速船 Fast speed

船速在30節或以上。

高速船 High speed

國際海事組織訂了一條公式說明了船舶可達到最大的航速,以每秒若干米,相等於或超逾下列公式的結果便是高速船。

$3.7\nabla^{0.1667}$

註: ∇表示在設計水線的排水量體積,以立方米為單位

我們將之化為以節為單位,則最大航速 = $\frac{3.7\nabla^{0.1667} \times 3600}{1852}$ 節

例如:

一艘船排水量體積為90立方米,求她的最大航速。

最大航速 = $\frac{3.7 \times 90^{0.1667} \times 3600}{1852}$ = $\frac{3.7 \times 2.117 \times 3600}{1852}$ = <u>15.226</u>節

那末,可看到這船雖然最大航速是15.226節,她被界定是高速船,不是常速船。

(林傑:退休船長 Master Mariner, FIS, MH.)



We have successfully represented substantial or state-owned shipowners, managers, charterers, P&I Clubs, hull underwriters and other related intermediaries in the shipping industry. The cases that we have handled include:

Contentious

- Insurance covers H&M / P&I / FD&D
- Carriage of goods-damage / short or non or mis-delivery
- Charterparty- demurrage / wrongful delivery / unsafe berth
- Defence to personal injuries by crew / stevedores

Others

- Employment Issues
- Landlords & Tenants
- Tracing of Trust Funds
- Enforcement of Awards & Judgments
- Defending claims arising from cyber crime
- Defending import & export related offences

Non-contentious

- Ship Building
- Ship Finance
- Sale of ship
- Ship Registration

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The Changing Arctic Sea Route and its New Opportunities

Sarab Gutter / Emily Gagnon / Becky Souriyavong / Scott Messing

Change is an important aspect in keeping businesses successful. But, is it worth it? With the new Arctic Sea routes, change is inevitable. New Arctic Sea Routes are openings in the Arctic Sea due to the increased amounts of melting ice. These include the Arctic Bridge, North-West Passage, Transpolar, and the Northern Sea Route. These shipping routes allow for more job opportunities, faster trade, and less fuel emissions. The New Arctic Sea Routes are bringing about positive change to the shipping industry.

How do we travel by sea? At the moment, the Suez Canal and Panama Canal are the most efficient ways of travel. Upon their initial constructions, the length of travel between destinations was cut in half. New expansion in the Arctic Sea plans to reduce travel time by at least 16 days compared to using the other routes.

Why are we considering the New Arctic Sea Routes? One reason is because of the Suez Canal, which links the Mediterranean and the Red Sea. With ships traveling between the two seas, invasive species are being carried between them. These inherently pose a threat to the respective ecosystems. Another issue is in regard to the Panama Canal; the canal loses approximately 25 million gallons of freshwater every time a vessel passes through. This isn't even considering its expansion in 2007 which doubled the size. As you can see, our current trade routes pose more of a threat than once considered; which makes a change in sea routes more appealing.

The effects of the New Arctic Sea Route span worldwide, but let's focus on the United States. The new Arctic Sea routes allow for easier trade connectivity and an increase in economic development between countries. The ability to use this new route allows for more opportunities for intercontinental business to occur. Specifically, it provides the US and Asia shorter trade passages. This positively stimulates both economies and opens the opportunity for new communications between these countries and their companies.

Do we have to pay for these new routes? No. Companies would only be paying for the travel and shipping expenses, like they are now. The only possible fees that could be required for the Arctic routes would be if an ice breaking ship is needed. However, many vessels are being produced with ice reinforcement that allow them to avoid this potential fee. Opening these new routes can lead to other changes, such as environmental. So, the preceding question is how will our environment be affected? These routes are opening due to the warming of the globe and change in climate. The new sea routes allow us to build more direct and faster routes. The shorter routes allow ships to produce less carbon emissions, which helps the environment. By reducing carbon emissions, many health threats can be minimized too.

So why use these new routes? The new Arctic Sea routes have the ability to reduce travel distance between countries up to 40 percent. This will allow for goods to be received earlier than usual as well as lower shipping costs per unit. Many positive outcomes such as job opportunities, reducing carbon emissions, and an increase in the travel industry also arise from these new routes. More job opportunities can contribute to economic growth. With the new routes, an increase in jobs such as helmsman, crew men and many more will increase. But not only the shipping industry will prosper through this change; this new route would improve the tourism industries, like cruise lines. The Arctic will be easier to navigate, so cruise ships can start to plan new trips. This new and uncharted land is full of potential, we just have to be willing to explore.

The New Arctic Sea Route is a great opportunity that is quickly emerging. Some people think the routes will affect the climate and environment negatively. Don't let the controversy try to sway you. The majority of consumers and companies are looking at the numerous positive effects that have already occurred, instead of speculating about the possible negative ones. By using the New Arctic Sea Route, you're allowing new trade between countries halfway around the world. It's quicker, and cheaper to utilize these routes.

So why wouldn't you use these routes? You'd be crazy to not accept this global change. We have to be able to adapt with our world's changes. Change and exploration are a part of who we are. The Americas would have never been founded if it weren't for exploration. The possibilities are endless with the New Arctic Sea Routes, we have to be open to the new opportunities it provides.

(Sarah Gutter is from NY and is a junior at The University of Rhode Island studying Supply Chain Management. Emily Gagnon is from North Kingstown, RI and is a junior at The University of Rhode Island studying International Business. Becky Souriyavong is from Woonsocket, RI and is a senior at The University of Rhode Island studying Marketing and Chinese. Scott Messing is from New Jersey and is a senior marketing major at the University of Rhode Island.)



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AA TALK



HULL INSURANCE CLAUSES -Scope of Insurance (I)

(As noted in Issue 122 the Editor of this column advised he would visit ITC-Hulls 1/10/83 with the assistance of the book "ITC HULLS 1.10.83" which was written by Mr. D. John Wilson who kindly allowed the Editor copyright on his book for any future editions.)

Clause 1 NAVIGATION

This clause is in the nature of an underwriting clause (as distinct from claims), and sets out certain limits on what the ship may – or may not – do for the annual premium charged. It opens in positive form by stating what the ship is permitted to do, but then continues with the negative provisions.

> 1.1 The Vessel is covered subject to the provisions of this insurance at all times and has leave to sail or navigate with or without pilots, to go on trial trips and to assist and tow vessels or craft in distress, but it is warranted that the Vessel shall not be towed, except as is customary or to the first safe port or place when in need of assistance, or undertake towage or salvage services under a contract previously arranged by the Assured and/or Owners and/

Raymond Wong

or Managers and/or Charterers. This Clause 1.1 shall not exclude customary towage in connection with loading and discharging.

The wording of the clause 1.1 relating to Towage deserves some explanation. The risks to which a vessel is exposed while under tow – or towing – are greater than when she is proceeding alone under her own power. Although Underwriters are willing to accept those extra risks:

- (a) On humanitarian grounds, when other vessels or crafts are in distress,
- (b) When it is customary for the insured vessel to be towed, i.e. in confined waterways or when entering, leaving or shifting within a port, or
- (c) When she has suffered a machinery breakdown or other accident and needs towage into a port of refuge, they are not prepared to allow the vessel to undertake towage or salvage services on a purely commercial basis (or distinct from emergency assistance on humanitarian grounds) under a contract previously arranged by the Assured etc.

With regard to (c) above, when the insured vessel is herself in need of assistance after a machinery breakdown or other accident, it will be noted that the clause wording permits towage only to "the first safe port or place". It is submitted that "the first safe port or place" may not necessarily be the nearest in mileage terms and should be construed as being the suitable port or place with adequate facilities for receiving the vessel under the prevailing circumstances.

In practice, it is not uncommon after a machinery breakdown for the vessel to be towed, not to a nearby port of safety, but for a much longer voyage, either to the port of destination or to a cheaper or more suitable port of repair. On such occasions, Underwriters will usually charge an additional premium for the extra risks to which the vessel will be subject, certainly if the expense of the towage (including extra premium) is likely to be treated as general average to which Cargo Interests will contribute.

> 1.2 In the event of the Vessel being employed in trading operations which entail cargo loading or discharging at sea from or into another vessel (not being a harbour or inshore craft) no claim shall be recoverable under this insurance for loss of or damage to the Vessel or liability to any other vessel arising from such loading or discharging operations, including whilst approaching, lying alongside and leaving, unless previous notice that the Vessel is to be employed in

such operations has been given to the Underwriters and any amended terms of cover and any additional premium required by them have been agreed.

Where vessels are too large - or too deep in the water – for them to enter the ports for which their cargo is intended, the whole or part of the cargo is customarily off-loaded into small vessels or ocean going barges in deep water at sea off the port of discharge. The risk of the two vessels colliding, or ranging against each other in heavy swells during such discharging or loading operations, is quite considerable, and any damage so sustained - or liability incurred - is not payable by Underwriters unless previous notice has been given to them and any additional premium required or amended conditions of insurance be agreed.

The clause 1.2 does not apply to normal lightering within a harbour or in inland waterways to small barges or similar harbour or inshore craft, nor to emergency operation following a casualty, e.g. jettison, transhipment or lightening a stranded ship.

> 1.3. In the event of the Vessel sailing (with or without cargo) with an intention of being (a) broken up, or (b) sold for breaking up, any claim for loss of or damage to the Vessel occurring subsequent to such sailing shall be limited to the market value of the Vessel as scrap at the time when the loss or damage is sustained, unless previous notice has been given to the Underwriters and any amendments

to the terms of cover, insured value and premium required by them have been agreed. Nothing in this Clause 1.3 shall affect claims under Clauses 8 and/or 11.

Whilst some over-valuation of <u>trading</u> ships is accepted by Underwriters for sound business reasons, they are not anxious to see Ship-owners making windfall profits by reason of the total loss of a vessel on her final voyage to the breakers' yard, when the value to her owner, indisputably, is only the scrap value. Accordingly, this clause 1.3 limits any claim (other than for collision liability under Clause 8 and general average under Clause 11) to the market value of the vessel as scrap, unless other arrangements have previously been made with Underwriters.

Clause 2 CONTINUATION

Should the Vessel at the expiration of this insurance be at sea or in distress or at a port of refuge or of call, she shall, provided previous notice be given to the Underwriters, be held covered at a pro rata monthly premium to ber port of destination.

Ships are customarily insured for a specific period of time – usually one year – and negotiations for the renewal of the policy are likely to take place a month or more before the existing policy expires.

One could have the situation, however, where a serious accident occurred towards the end of the policy period and before negotiations for renewal of the policy had taken place. Insurance cover would still be required when the current policy lapses, but the premium required for a seriously damaged ship which may still be in danger at sea could well be prohibitive.

To alleviate this position, Underwriters hereby agree to hold the vessel covered to her port of destination, if required, at the <u>same</u> rate of premium as on the existing policy, but on a monthly basis.

Clause 3 BREACH OF WARRANTY

Held covered in case of any breach of warranty as to cargo, trade, locality, towage, salvage services or date of sailing, provided notice be given to the Underwriters immediately after receipt of advices and any amended terms of cover and any additional premium by them be agreed.

In the Navigation Clause dealt with earlier, it was warranted that the vessel should not be towed or undertake towage of salvage services, etc., for reasons which have already been explained. There are other clauses containing various warranties.

However, if the Ship-owner wishes to break any of these warranties, he is at perfect liberty to do so and retain the cover of the insurance, provided only that he gives notice to the Underwriters immediately on learning that a warranty has been or is about to be broken, and agrees any amended terms of insurance or any additional premium required by the Underwriters to cover the extra risk involved.

Clause 4 TERMINATION

This Clause 4 shall prevail notwithstanding any provision whether written typed or printed in this insurance inconsistent therewith.

Unless the Underwriters agree to the contrary in writing, this insurance shall terminate automatically at the time of

4.1change of the Classification Society of the Vessel, or change, suspension. discontinuance, withdrawal or expiry of her Class therein, provided that if the Vessel is at sea such automatic termination shall be deferred until arrival at her next port. However where such change, suspension, discontinuance or withdrawal of her Class has resulted from loss or damage covered by Clause 6 of this insurance or which would be covered by an insurance of the Vessel subject to current Institute War and Strikes Clauses Hulls—Time such automatic termination shall only operate should the Vessel sail from her next port without the prior approval of the Classification Society,

4.2any change, voluntary or otherwise, in the ownership or flag, transfer to new management, or charter on a bareboat basis, or requisition for title or use of the Vessel, provided that, if the Vessel has cargo on board and has already sailed from her loading port or is at sea in ballast, such automatic termination shall if required be deferred, whilst the Vessel continues her planned voyage, until arrival at final port of discharge if with cargo or at port of destination if in ballast. However, in the event of requisition for title or use without the prior execution of a written agreement by the Assured, such automatic termination shall occur fifteen days after such requisition whether the Vessel is at sea or in port.

A pro rata daily net return of premium shall be made.

This clause is highly important from the Underwriters' point of view and, for this reason, the clause opens in heavy type and states that it shall prevail notwithstanding any provision whether written, typed, or printed in the insurance which may be inconsistent therewith.

When Underwriters originally wrote the insurance, some of the important factors which they would have taken into account in assessing the premium to be charged were:

- A) The Ownership (or Management) of the vessel;
- B) The Classification Society in which the vessel was entered;
- C) The Flag (or country in which she is registered).

With regard to:

- A) OWNERSHIP Two vessels of identical build, size and age etc. can present two widely different risks to an Underwriter. One vessel may be operated by first class owner, be maintained by him in tip-top working order, and with the best available officers and crew to run it. Another owner, in his endeavours to make every possible penny of profit, may be inclined to run his ship on shoestring, skimping on repairs and routine maintenance, and this reputation may also mean that only second class personnel will be likely to accept employment with him. A ship belonging to the second owner clearly presents a greater risk to Underwriters, and the premium charged will accordingly be higher.
- B) CLASSIFICATION All Classification Societies endeavour to maintain high standards for the vessels classed by them, but it is a commercial fact of life that there is competition between the various Societies and that if one Society insists that certain work be done on a ship to maintain her class, the owner may transfer the vessel to a more "lenient" Society. It follows that the risk on that vessel has probably increased if the work required by the original Society has not been done, or done to a lesser standard.
- C) FLAG It used to be the custom for vessels to be registered under the national flag of the country of which the Ship-owner was a citizen, but

since the World War II it has been common to see ships flying with a flag of a country – often with no previous maritime tradition – largely for convenience and tax reasons. In addition, some of the maritime nations have fewer and less stringent regulations concerning safety of life at sea etc., and Underwriters accordingly take careful note of the flag under which the vessel sails, or any change in that flag.

To protect themselves, Underwriters reserve the right to terminate the insurance whenever:

- a) The Classification Society is changed, or
- b) the existing Class of the vessel is:
 (i) changed,
 (ii) suspended,
 (iii) discontinued
 (iv) withdrawn, or
 - (v) expires.
- c) The Ship-owner:
 - (i) sells his vessel,
 - (ii) transfers it to new management,
 - (iii) charters her on a bareboat basis(i.e. where the charterer provides the crew and takes over all responsibility for running the vessel), or
 - (iv) has his vessel requisitioned (e.g. by the Government);
- d) The flag of the vessel is changed.

Unless Underwriters agree to the contrary in writing, the termination of the contract takes place automatically at the time of any of the above "changes", except that if the vessel is then at sea, termination is usually deferred until arrival at a port – see the actual wording of the clause 4.2 for precise details.

Where the insurance is terminated, a pro rata daily net return of premium is made.

Clause 5 ASSIGNMENT

No assignment of or interest in this insurance or in any moneys which may be or become payable thereunder is to be binding on or recognised by the Underwriters unless a dated notice of such assignment or interest signed by the Assured, and by the assignor in the case of subsequent assignment, is endorsed on the Policy and the Policy with such endorsement is produced before payment of any claim or return of premium thereunder.

Sections 50-51 of the Marine Insurance Act 1906 provide that:

"50. - (1) A marine policy is assignable unless it contains terms expressly prohibiting assignment. It may be assigned either before or after loss.
(2) Where a marine policy has been assigned so as to pass the beneficial interest in such policy, the assignee of the policy is entitled to sue thereon in his own name; and the defendant is

entitled to make any defence arising out of the contract which he would have been entitled to make if the action had been brought in the name of the person by or on behalf of whom the policy was effected.
(3) A marine policy may be assigned by indorsement thereon or in other customary manner.

51. Where the assured has parted with or lost his interest in the subject-matter insured, and has not, before or at the time of so doing, expressly or impliedly agreed to assign the policy, any subsequent assignment of the policy is inoperative. Provided that nothing in this section affects the assignment of a policy after

affects the assignment of a policy after loss."

The basic purpose of Clause 5 is fairly simple. Before any claim on a policy can be paid, the policy itself has to be produced, and the claim will normally be paid only to the named Assured. By this clause, Underwriters avoid the possible situation where they have paid a claim to the named Assured, and are subsequently called upon to pay yet again by an assignee whose title is on some separate document of which the Underwriters had no previous knowledge.

IN BRIEF

At the 150th annual general meeting of the British Association of Average Adjusters (better known as AAA) held in London on 9th May 2019, two average adjusters practising in Hong Kong, namely Peter Fei and William Lai, were elected Fellow of the Association, both having satisfied the examiners of the AAA. It is worth mentioning that William is the first local Hong Kong born AAA Fellow after Benson Chiu who qualified as AAA Fellow in 1992 and held a grand retirement party on the 15th March 2019.

The Supreme Court gave judgment on the "Renos" on 12th June 2019, and unanimously allowed the appeal in part, holding that "the cost of repairing the damage" to the vessel under section 60(2)(ii) includes expenditure already incurred before the service of notice of abandonment, but excludes charges payable to the salvors under SCOPIC (Special **Compensation Protection & Indemnity** Clause) of LOF (Lloyd's Open Form).

> Accordingly, attention is drawn to page 28 of Issue 122 of "Seaview" and readers are requested to delete item 12 from the list of costs of recovery &/or repair of the Vessel which may be included in computing a CTL.

(Raymond T C Wong: Average Adjuster)



Asia Maritime Adjusting - Shanghai Asia Maritime Adjusting Pte Ltd. - Singapore Rogers Wilkin Ahern LLP - London PT. Global Internusa Adjusting - Jakarta Concord Marine - Taipei



E. info@averageadj.com



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On completion of this form, it should be sent to "The Secretary, Institute of Seatransport, G.P.O. Box 6081, Hong Kong" together with a cheque of HK\$400, payable to "Institute of Seatransport". This amount is for covering the entrance fee and first Annual Subscription only and is not refundable if withdrawn by the applicant.

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集團總部位於香港,業務分佈於香港、中國內地、東南亞 等極具活力和潛力的新興市場,被列為香港『四大中資企 業』之一,在國際工商界有著廣泛影響。

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