

# RISKWATCH

October 2024

CARRIAGE OF RARE, VALUABLE  
AND HIGH VALUE CARGO



**BRITANNIA**  
P&I CLUB / TRUSTED SINCE 1855

# IN THIS



Welcome to this edition of **Risk Watch**, where we continue our commitment to providing insightful, relevant, and timely information to the maritime industry. This issue addresses critical topics such as **FUELU regulations, mental health strategies for seafarers, legal cases, and the handling of high-value cargo**, all aimed at enhancing safety and operational efficiency at sea.

In light of **World Mental Health Day**, we emphasise the importance of supporting the mental wellbeing of our seafarers, who face long periods away from home and the stresses of life at sea. Our feature article offers practical strategies for shipowners and managers to promote mental health on board, creating a healthier and more supportive working environment.

Additionally, as we delve into the growing **concerns around GNSS jamming and spoofing**, we explore how ship operators can prepare for and respond to these threats. With the increased reliance on global navigation satellite systems, it's vital that the industry remains vigilant and prepared for disruptions that could compromise safe navigation.

Lastly, our analysis of the **complex regulations surrounding the carriage of valuable cargo** will equip shipowners with the tools and strategies needed to mitigate risks. From ensuring proper documentation to implementing heightened security measures, we offer practical guidance for managing these high-stakes shipments.

**We hope you find the articles in this issue** informative. As always, we value your feedback and encourage you to share your thoughts on how we can continue to serve the evolving needs of the maritime community.



**JESSIE DUNN**  
Editor

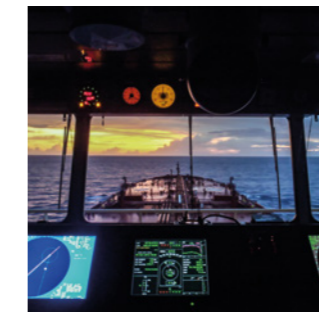
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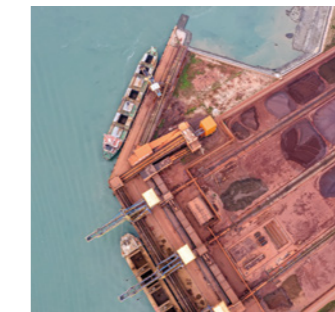
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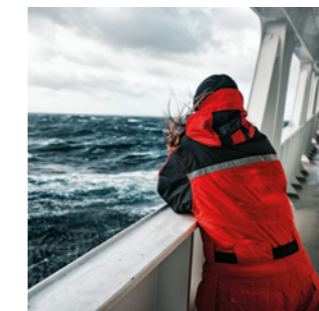
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# FueLEU

# MARITIME REGULATION

**REGULATION (EU) 2023/1805,** COMMONLY CALLED THE 'FUELEU MARITIME' REGULATION WAS ADOPTED ON **13 SEPTEMBER 2023**, WITH THE COMMENCEMENT OF THE FIRST REPORTING PERIOD, **1 JANUARY 2025**, NOW APPROACHING.

ANTHONY GARDNER LOSS PREVENTION MANAGER, BRITANNIA P&I

**THE REGULATION APPLIES ONLY TO CARGO OR PASSENGER SHIPS GREATER THAN 5,000 GT THAT CALL AT A PORT<sup>1</sup> IN THE EUROPEAN ECONOMIC AREA (EEA), MADE UP OF THE 27 EUROPEAN UNION (EU) COUNTRIES, ALONG WITH NORWAY, ICELAND AND LICHTENSTEIN.**

The principal objective of the regulation is to reduce the greenhouse gas emissions from the shipping industry. There are three main ways it does this:

1. It reduces the permitted Greenhouse Gas<sup>2</sup> (GHG) intensity of energy used
2. It will make mandatory use of onshore power supply (OPS) for container ships and passenger ships calling at many ports within the EU/EEA
3. It encourages the uptake and development of renewable fuels of non-biological origin (RFNBO).

The regulation will introduce financial penalties for non-compliant ships, and ultimately the expulsion of ships that refuse to comply.

## RECORDING ENERGY USAGE

For calculating applicable energy usage, and subsequent GHG intensity. The following must be reported:

1. All energy consumed within an EU/EEA port, and during any journey between EU/EEA ports
2. 50% of the energy consumed during any journey between EU/EEA ports if one of the ports is located in an 'outermost region'<sup>3</sup>
3. 50% of the energy consumed between voyages to/from an EU/EEA port and a third country<sup>4</sup>.

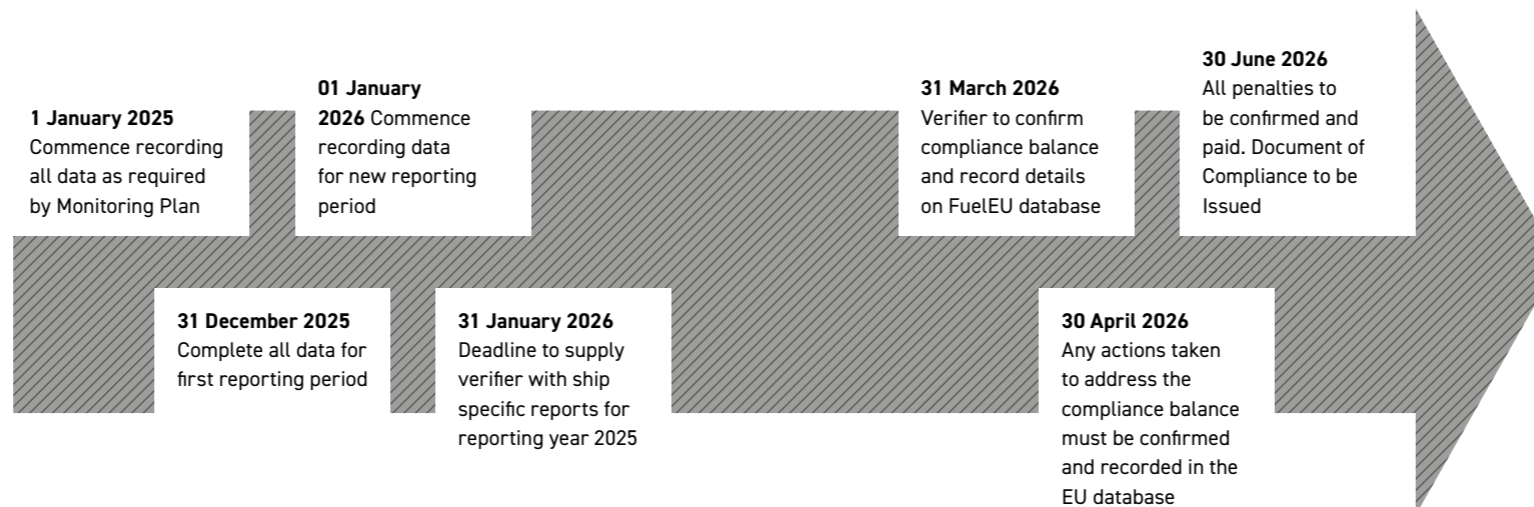
The company responsible for complying with the regulation is the ISM Code Document of Compliance holder for the ship. This company must record all the data specified in the ships approved monitoring plan<sup>5</sup> for each 'reporting period'. The monitoring plan will be approved by accredited verifiers (often a ship's classification society). The monitoring plan should have been submitted by 31 August 2024 for ships that meet the above criteria. For ships that first call at an EU/EEA port after 31 August 2024, a monitoring plan must be submitted to their verifier for approval within two months.

Each reporting period for a given year runs from 1 January until 31 December. All data collected should be combined in a ship specific report and submitted to the accredited verifier by 31 January of the following year. The year following a reporting period is known as the 'verification period' for the previous year.

The verifier will examine the submitted report for accuracy and completeness and, if necessary, seek further clarification, confirming that the report complies with the regulation. The verifier will then calculate:

- The ships average annual GHG intensity
- The ships compliance balance (the difference between the permitted GHG intensity in that time period, and the average annual GHG intensity achieved, multiplied by the amount of energy used)
- Any non-compliant port calls in relation to the use of OPS
- The amount of energy used from RFNBO

This information will then be added to the FueLEU database by the verifier with a deadline of 31 March.





**CONTAINER SHIPS AND PASSENGER SHIPS MUST CONNECT TO AN OPS FROM 1 JANUARY 2030 WHEN CALLING AT CERTAIN PORTS<sup>6</sup>, WITHIN THE EU/EEA.**



**NOTES**

1. Port call means for the purpose of loading/unloading cargo or to embark/disembark passengers. Solely calling at a port for bunkering, crew change, emergency purposes etc is not considered a port call.
2. The GHG's considered are Carbon Dioxide (CO2), Methane (CH4), and Nitrous Oxide (N2O)
3. A list of current outermost regions can be found at Article 349 TFEU (found 6 August 2024 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:3A12012E349>)
4. To prevent distortions and deliberate attempts at evasion, certain container-ship ports within 300 nautical miles of an EEA/EU port will not count as a port of call for this regulation. The identified ports should be recorded by 31 December 2025 and will be reviewed/updated every 2 years
5. A template for the monitoring plan can be found here [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L\\_202402031](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L_202402031)
6. Applicable ports meeting the requirements of Article 9, Regulation (EU) 2023/1804 <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32023R1804#d1e2457-1-1>

**GHG INTENSITY**

The permitted annual average GHG intensity of fuels will be reduced by increasing amounts every five years. The baseline GHG intensity from 2020 has been calculated as 91.16 grams of CO2 equivalent per Megajoule (gCO2eq/MJ).

Date of Commencement	Percentage Reduction from baseline	GHG Intensity Limit (gCO2eq/MJ)
1 January 2025	2	89.34
1 January 2030	6	85.69
1 January 2035	14.5	77.94
1 January 2040	31	62.90
1 January 2045	62	34.64
1 January 2050	80	18.23

The GHG intensity of the fuels used are calculated well-to-wake (WtW), meaning a combination of the GHG emissions created in the production, transport, storage etc of the fuel, known as well-to-tank (WtT), and the emissions created by using the fuel on board the ship, known as tank-to-wake (TtW). By requiring WtW emissions reporting, a more accurate calculation can be made of the environmental effect of the fuel usage.

Note that the use of wind-assisted propulsion is the only technical measure/efficiency solution that can be used to reduce the GHG intensity of individual ships in this regulation.

Annex II of the regulation contains the emission factors required to determine the overall WtW GHG intensity of fuels used. Where applicable, additional certification will be required stating the calculated WtT GHG intensity of (non-fossil) fuels bunkered. Otherwise, the default values contained in the regulation must be used.

**ADDRESSING THE COMPLIANCE BALANCE**

If the compliance balance is in surplus, the company can 'bank' this surplus for use in the following year's reporting period, effectively reducing the energy intensity saving required. Alternatively, this surplus can be 'pooled' with other ships.

If the compliance balance is in deficit, the company can 'borrow' some allowance from the next reporting year (with an interest penalty), effectively increasing the energy intensity saving required for the following year. Note that borrowing cannot be used two years in a row. Alternatively, the deficit can be offset by using the 'pooled' surplus from other ships.

Pooling allows the surplus of a ship to be used to remove a compliance balance deficit for one or more ships. There are various permutations allowed, including the pooling with ships controlled by another company. Clearly, there are commercial implications when pooling compliance, particularly between companies. Legal advice should be sought when doing so.

If none of the above compliance methods are used to remove a compliance deficit, then a financial penalty must be paid. The financial penalty increases each year that compliance is not achieved.

All the options must be conducted transparently and in full coordination with the accredited verifier. Once the company has chosen how it will address its compliance balance, the verifier should record the details within the FuelEU database by 30 April. No further changes are possible after this point.

**ON-SHORE POWER SUPPLY (OPS)**

Container ships and passenger ships must connect to an OPS from 1 January 2030 when calling at certain ports<sup>6</sup>, within the EU/EEA.

This requirement for container ships and passenger ships to connect to OPS will be further expanded from 1 January 2035 to all other ports where an OPS is available.

Furthermore, any port may make the use of OPS mandatory between 1 January 2030 until 31 December 2034, providing a notice period of one year is advised.

There are some exceptions to the above, such as being moored for less than two hours, or where an alternative zero-emission technology is used for all electrical power demand.

Any non-compliant port calls, where no exception is valid, will be recorded and confirmed by the verifier. Where this is the case, a financial penalty will be applied, payable by 30 June of the verification period. See below, a simplified calculation for the penalty

$$\text{FuelEU penalty for non-compliance with OPS Requirement} = \text{Total electrical power demand of the ship at berth (kW) x hours spent at berth (rounded up to nearest whole hour)} \times \text{EUR 1.50}$$

**RENEWABLE FUELS OF NON-BIOLOGICAL ORIGIN (RFNBO)**

Use of RFNBO fuel is incentivised by providing a doubling of its effectiveness in the GHG Intensity calculation of energy used until 31 December 2033.

There is also a target for RFNBO use to account for at least 1% of all energy used on board ships covered by this regulation in 2031.

If this 1% target is not achieved, there is provision to introduce a ship specific target of 2% of energy produced by RFNBO from 1 January 2034, with penalties for each non-compliant ship.

The RFNBO target will remain under review, due to the relative immaturity of this industry.

**DOCUMENT OF COMPLIANCE**

Once the company has paid any FuelEU penalty in relation to compliance balance deficit, OPS, or RFNBO which must be done by 30 June, a FuelEU Document of Compliance will be issued by the verifier. It is planned that holding a valid document of compliance will be a requirement to enter EU/EEA ports in future.

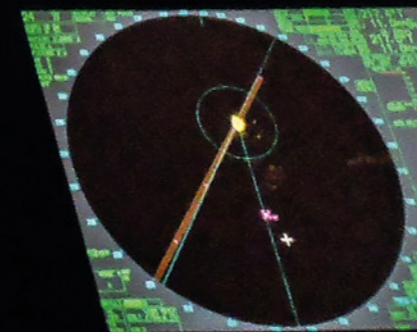
**THE FUELEU MARITIME REGULATIONS ARE EXTENSIVE, WITH THE POSSIBILITY OF INCURRING SUBSTANTIAL FINANCIAL PENALTIES IF NOT FOLLOWED. WE RECOMMEND THAT ALL SHIPOWNERS WHO ARE LIKELY TO BE AFFECTED BECOME FAMILIAR WITH THE TEXT OF THE REGULATION AND LIAISE CLOSELY WITH YOUR SHIPS VERIFIER TO ENSURE COMPLIANCE.**



MODERN SHIPS RELY HEAVILY ON GLOBAL NAVIGATION SATELLITE SYSTEM (GNSS) SERVICES, SUCH AS THE **GLOBAL POSITIONING SYSTEM (GPS)**, TO ENSURE SAFE NAVIGATION. **GNSS POSITIONING, NAVIGATION, AND TIMING (PNT) DATA INPUTS** ARE ALSO INTEGRATED WITH OTHER NAVIGATIONAL AND COMMUNICATION SYSTEMS ON BOARD.

**JOBIN MATHEW**

LOSS PREVENTION OFFICER, BRITANNIA P&I



# NAVIGATIONAL RISKS AT SEA:

## THE GROWING THREAT OF GNSS JAMMING AND SPOOFING

However, incidents of GNSS jamming and spoofing are increasing, which can disrupt all equipment reliant on GPS PNT data. According to the US Coast Guard 'Navigation Center' (NAVCEN), recent reports show marine GPS signal disruptions in regions such as the eastern Mediterranean, Black Sea, Red Sea, coastal waters of China, and the Persian Gulf—many of which are near areas of geopolitical conflict.



### WHAT IS JAMMING?

Jamming is the intentional Radio Frequency Interference (RFI) with GNSS signals. It occurs when interference disrupts the signals at GNSS frequencies, preventing the GNSS receiver from detecting and processing the authentic signal. This happens because the strength of the jamming device exceeds that of the weaker GNSS signals received.

### WHAT IS SPOOFING?

Spoofing involves transmitting a fake GNSS signal to deceive receivers, causing them to compute incorrect PNT data. This should not be confused with Automatic Identification System (AIS) spoofing, where altered or fabricated AIS data is transmitted to deceive AIS tracking systems regarding a ship's identity, position, and other information.

### HOW TO DETECT GNSS JAMMING OR SPOOFING

- A position loss alarm on the GPS receiver or other navigation and communication systems that depend on PNT data
- Unexpected deviations in the vessel's track displayed on the Electronic Chart Display and Information System (ECDIS) when compared to RADAR
- Sudden jumps in the vessel's position or unexpected increases in speed on ECDIS, even when the GPS receiver's horizontal dilution of precision (HDOP) is below 2
- Inconsistencies between RADAR overlay and the ECDIS when the vessel is near land
- Discrepancies in the plotted ship's position when cross-referencing GNSS data with RADAR or visual verification at regular intervals
- Differences between the echosounder depth and the expected depth according to contour lines when passing a depth contour.

### SAFETY IMPLICATIONS OF GNSS DISRUPTIONS

- In open sea navigation, where GNSS positioning is the only available method, ships will need to rely on dead reckoning (DR) positions or celestial navigation techniques
- A sudden GNSS loss will trigger alarms on all navigational and communication systems relying on GNSS PNT data, which can be distracting for the bridge team, especially in high traffic areas or confined waters
- AIS positions of other vessels may become inaccurate, and your own ship's AIS position could mislead nearby vessels
- If crew members are not properly trained to handle such situations, the safety of the ship's navigation could be seriously compromised.

### ACTIONS TO TAKE ONCE GNSS OUTAGE/ DISRUPTION IS DETECTED

- Change the ECDIS position (both primary and secondary) and speed input to DR position and log speed
- Identify RADAR-conspicuous objects in the passage plan
- Begin manually plotting the vessel's position using visual or RADAR means if near land
- Use tools such as RADAR parallel indexing and RADAR overlay on ECDIS to monitor the vessel's position near land
- Confirm that the RADAR speed input is log speed, if not already set
- Other ships in the vicinity may also be affected by GNSS disruption; navigate cautiously and rely less on AIS information from other vessels
- Turn off AIS overlay on ECDIS if anomalies are observed in the AIS information of target vessels
- Advise the master of the situation. An extra deck officer may be required on the bridge for assistance
- Give wide room to any encountered traffic
- Consider arriving during daylight hours when approaching a port or area known for GPS disruptions
- Report any marine GPS signal disruptions to NAVCEN at <https://www.navcen.uscg.gov/report-a-problem>
- Alternatively, any GPS disruption can be reported to NATO at <https://shipping.nato.int/nsc/page10303037>

THE CLUB RECOMMENDS THAT SHIPOWNERS AND OPERATORS DEVELOP A RESPONSE PLAN FOR GNSS DISRUPTION AS PART OF THEIR SAFETY MANAGEMENT SYSTEM. CREW RESPONSIBLE FOR SAFE NAVIGATION SHOULD BE TRAINED TO RECOGNISE GNSS DISRUPTIONS AND IDENTIFY THE SYSTEMS AND EQUIPMENT AFFECTED ON BOARD. GNSS FAILURE DRILLS SHOULD BE CONDUCTED TO FAMILIARISE THE CREW WITH THE STEPS REQUIRED, INCLUDING CHANGING EQUIPMENT SETTINGS DURING SUCH DISRUPTIONS.



# BILLS OF LADING

## COMMON PROBLEMS AND BEST PRACTICE

ANTHONY GARDNER LOSS PREVENTION  
MANAGER, BRITANNIA P&I

The bill of lading (B/L) remains a vital part of shipping goods by sea and provides the following functions:

1. A document of title, providing evidence of ownership of the goods described
2. A receipt for goods received by the carrier
3. Evidence of a contract of carriage between shipper and carrier.

Correctly completing and handling the B/L is imperative to reduce the carrier's risk of liability for cargo related claims.

### COMMON ISSUES 'CLEAN' BILLS OF LADING

A master may be requested to sign only 'clean' B/L. A clean B/L is required by some banking facilities to provide credit etc. Difficulties arise when the goods supplied for carriage are not in the condition described in the B/L. However, the master should only sign B/Ls that provide an accurate description of the goods carried. To sign otherwise may amount to a misrepresentation, possibly rendering owners liable for any cargo claims in relation to this cargo and would potentially prejudice the owners' P&I cover in relation to the cargo affected. Accepting a letter of

indemnity (LOI) from the shipper or charterer may provide owners with some protection as a substitute for any loss of P&I cover, but will not remove liability exposure.

Some charterers may claim that the owner must instruct the master to sign a clean bill, based on the charterparty wording. However, this wording has been challenged, and it is the charterers' responsibility to provide goods that match the description of the B/L.

Any clauses in relation to the condition of the goods should be added to the B/L before signature, otherwise goods that match the description should be supplied.

### QUANTITY OF THE GOODS

A situation may arise where the quantity of goods supplied does not match that declared on the B/L. Many B/Ls are printed with 'weight, measure, quantity, quality, conditions, contents & value unknown', or similar. While this shows that the figures supplied are those provided by the shipper and not the carrier, it can only be relied upon if determining the quantity accurately is not feasible. For example, a cargo of 100 packages can easily be confirmed, whereas 30,000 MT of bulk cargo is difficult to determine accurately.

Regardless, if the master finds that the supplied figures do not match the ships calculations or tally, then the ships figure should be entered on the B/L. The shippers may reject a claused B/L, resulting in a dispute and often pressure being applied to the master and shipowners to sign the B/L as is. In this circumstance, shipowners will have to make a judgement on the costs of dispute. Each situation is different, and we would recommend seeking advice from the Club as required.

### ELECTRONIC BILLS OF LADING (E-B/L)

The use of e-B/Ls through paperless trading systems continues to grow. There are advantages to the use of e-B/Ls, such as the improved speed of transfer or the apparent improvement in security.

The International Group of P&I Clubs has assessed paperless trading systems offered by the leading suppliers and has approved several systems. If an unapproved system is used, Club cover will only respond after the Member shows that the liability would have arisen even if a paper B/L had been used. The most recent Club circular on the subject, including the latest list of approved systems, can be found on the Britannia website.

The bill of lading is an important document. There are various situations when a shipowner cavomissions when producing and handling bills of lading. Providing clear guidelines to ships masters, can help to reduce problems.

**PLEASE CONTACT THE CLUB IF YOU ARE EVER UNSURE OF THE CORRECT ACTION TO TAKE.**

### CHECK POINTS

There are other points to confirm when handling B/Ls:

- Check that the B/L incorporates the Hague or Hague-Visby rules, usually in the form of a clause paramount
- Do not sign a B/L if blank or only partially completed. The exception to this is when an Early Departure Procedure has been agreed with the charterer or shipper
- Confirm the correct port and date of loading is shown
- Any carriage instructions inserted should be checked against other documents (mate's receipts, voyage instructions, shipping order). If in doubt, the master should clarify them with the shipper and the shipowner
- Check the B/L is on the form stipulated by the charterparty or the ordinary form for the trade
- Check that the terms of the applicable CP are incorporated in the B/L and the CP incorporation clause is inserted as applicable
- Avoid general wording (e.g "other conditions as per CP" or "CP terms and conditions incorporated therein") and to ensure proper incorporation, the following wording should be included: "all terms, clauses, conditions and warranties including the arbitration, choice of law, time bar and time limitation clauses of the CP dated .... are hereby incorporated in this BL"
- Do not amend a set of B/Ls after they have been issued
- Do not re-issue a set of B/Ls if an earlier set is already issued. Before doing this confirm that the original set of B/Ls has been cancelled or destroyed
- Confirm the stated number of original B/Ls match the number of bills presented for signature
- Sign only in the designated signature space or, if none, at the bottom of the B/L face and NOT elsewhere (signing next to the shipper's description may be interpreted as confirming the description).
- Retain a copy of the signed B/L marked/stamped "non-negotiable copy" for comparison with the original B/L presented for delivery
- Do not accept deck cargo, unless the B/L is clearly marked as 'CARRIED ON DECK AT SHIPPERS RISK' or similar
- Do not discharge goods without presentation of an original B/L. This should only be done upon receiving an acceptable LOI from the receiver
- Seek clarification when instructed to discharge at a different port from that printed on the B/L.



# LOADING ASSORTED BREAKBULK CARGOES IN CHINA

STEPHEN HUNTER  
FLEET MANAGER BRITANNIA P&I

**LOADING OF BREAKBULK CARGO IN CHINA CAN BE COMPLEX AND INVOLVE A VARIETY OF DIFFERENT CARGO TYPES ON THE SAME VOYAGE. THESE CARGOES CAN INCLUDE, STEEL CARGO, TRUCKS, TRAILERS AND BAGGED CARGOES**

The Club often assists with the appointment of surveyors to help oversee the loading of these assorted breakbulk cargoes. These are precautionary surveys, ultimately for the shipowner's account and can be worthwhile.

These loadings require awareness by the master and crew, with careful thought and questioning of the stowage intentions throughout. There is often a pressure to load the cargo quickly which may not be easy if there are many different cargo types being loaded onto the ship, into different holds, often simultaneously.

General concepts for masters and shipowners to remain aware of include:

- i. Obtaining the stowage plan as early as you can
- ii. Start, as soon as possible, to scrutinise the draft stowage plan. If there is anything inappropriate with the stowage arrangement, then commence enquiries to see if the stowage plan needs to be adjusted
- iii. Actively envisage the stow as it builds. Consider and question any areas of potential non-compliance with the ship's approved cargo securing manual
- iv. The weight of the cargo must comply with both the ship's tank top and hatch cover (if required) weight limits to prevent structural damage
- v. Ask to secure additional lashings if needed
- vi. Weld additional lashing points before loading adjacent cargo whenever necessary. Avoid welding on bunker tank perimeters. Take maximum precautions to prevent heat damage or fire when performing hot work in, above, or adjacent to existing cargo. Follow relevant safety procedures for hot work at all times, and ensure that new lashing points are approved by the ship's flag state
- vii. Avoid high, inadequately supported, "cliff faces" of cargo that might collapse into a void space. This includes considering where the cargo is being discharged and port rotation
- viii. Confirm that vehicles' fuel tanks are empty and electrical batteries are disconnected before loading. If not, consider them as dangerous goods and ensure compliance with the International Maritime Dangerous Goods (IMDG) Code.

Typically, it is easier to adjust or improve a stow as the cargo is being loaded, not after when the stevedores can be reluctant to re-visit earlier items and when access to some, already stowed cargoes lower down, can be a challenge. If there is a doubt, ask the questions in a timely fashion.

Keeping conversations with the stevedores and charterer's representatives respectful, can also help to achieve a mutually acceptable stowage outcome.

Please keep in mind that the surveyor is unlikely to be fully familiar with all the details in the ship's cargo securing manual. Cargo securing manuals can have some generic similarities but are often ship specific and the surveyor cannot completely take over the loading supervision on behalf of the master but is there to work with the master and especially to assist linguistically. It is ultimately the ship master's responsibility to ensure the cargo is safely handled, stowed and secured in accordance with the relevant regulations.

**IF YOU NEED TO APPOINT A SURVEYOR AT A LOAD PORT IN CHINA TO ASSIST WITH CARGO LOADING, PLEASE CONTACT EITHER THE LOCAL LISTED CORRESPONDENT OR YOUR CLAIMS TEAM AT BRITANNIA AS SOON AS POSSIBLE.**

# CARRIAGE OF RARE, VALUABLE AND HIGH VALUE CARGO

TRANSPORTING RARE, VALUABLE AND HIGH VALUE CARGO DEMANDS MORE THAN JUST STANDARD SHIPPING PROCEDURES; IT REQUIRES A HEIGHTENED LEVEL OF VIGILANCE AND SPECIALISED STRATEGIES TO ENSURE THE SAFE DELIVERY OF THESE VALUABLE GOODS.



## RARE AND VALUABLE CARGO

The Club's cargo rule (19.17.8.5) addresses the transport of rare and valuable cargo. This rule states that there will be no recovery for the loss of or damage to the following items, unless the contract of carriage and security arrangements have been pre-approved by the managers:

- Specie (money in the form of coins rather than notes)
- Bullion (gold or silver in bulk before coining, or valued by weight)
- Precious or rare metals or stones
- Plate (articles made of precious metals, especially silver or gold, fashioned into flatware, dishes, trays, and other ornamental articles)
- Jewellery or other objects of a rare or precious nature
- Bank notes or other forms of currency
- Bonds or other negotiable instruments.

The types of cargo listed in the rule are a tempting target for theft and are likely to have a substantial value. Therefore, it is essential for robust security measures to be in place during the contract of carriage.

To manage these risks effectively, it is important to inform the Club of any intention to carry rare and valuable cargo. This allows the Club to assess the potential risk and provide specific guidance.

Below are some prudent steps shipowners should typically consider when carrying rare and valuable cargo:

1. Issue carriage documents (i.e. Bill of Lading or Sea waybill) on a port-to-port basis only, with no responsibility for pre-carriage to the load port or on-carriage to destination from the discharge port. This would avoid the risk of cargo being stolen during a road leg
2. Avoid issuing ad-valorem carriage documents (see below)
3. Stow containers below deck with doors inaccessible or, if on deck, in an upper tier – although ideally not at the ships side
4. Minimise the time cargo will be stowed in the load and the discharge port
5. If road haulage is arranged, ensure prompt delivery of the container after discharge from the ship
6. Store the container in a terminal with blocked and inaccessible doors, ideally in a tier above ground
7. Verify with the relevant terminal that there is adequate and appropriate security arrangements in place
8. If there is concern about theft or extended storage, hire a reputable security company to protect the container
9. Minimise access to information about the arrangement of the carriage of rare and valuable cargo and ensure those with access avoid disclosing information unless necessary.

The carriage of any goods should generally be considered a private matter and it is good practice to remind all crew and employees to avoid discussion of rare and valuable cargoes being carried in public forums or with external parties. Posting the specifics of rare and valuable cargoes on social media should be forbidden.

## AD-VALOREM BILLS OF LADING

When the carrier agrees to place a declared cargo value on a bill of lading, or other document of title, contract of carriage or waybill, this is called an Ad Valorem document. If the carrier uses an Ad Valorem document, they may be deprived of the right to limit liability under the Hague, Hague-Visby, or similar provision. In such circumstances, the Club cover may be prejudiced unless special cover has been agreed.

It is important for Members to declare an intention to issue an ad-valorem carriage document to the Club as soon as possible. This ensures an investigation can be made with market underwriters to determine if the increased liability under the carriage document can be insured and the terms and conditions of any such additional insurance. Please refer to Club rule 19.17.8.4.

## HIGH VALUE CARGO

Claims handlers often receive enquiries in relation to the carriage of cargo which has a high value but does not appear to fall within the scope of the Club's rare and valuable cargo rule. This includes items such as cigarettes, jet engines, aircraft wings to artwork, vintage cars, pharmaceuticals and exhibition materials. Unless specific reporting requirements are agreed, it will not usually be necessary to notify the Club of high value cargo and P&I cover will continue to operate.

The considerations for accepting high value cargo are similar to those for rare and valuable cargo. Stowage is crucial not only for security but also to prevent damage, especially when dealing with out-of-gauge cargo that cannot be transported in a standard container. It is also imperative that care and handling instructions are received from the shipper. For example, certain cargoes will be transported by reefer container, and the carriage set point for temperature and atmosphere must be known and adhered to. Similarly, non-standardised cargoes must be secured in accordance with the ships approved cargo securing manual. A warranty surveyor may be required to attend at the loading port, to document the cargo condition and confirm the securing arrangements are adequate.

In such cases, deck carriage may be necessary. However, members must comply with the Club's deck carriage rule (19.17.8.9), which requires that the cargo be suitable for deck transport, along with other relevant carriage contract terms (such as liberty clauses and provisions for the application of Hague or Hague-Visby Rules).

Transporting high-value cargo often involves tight timelines, such as for exhibitions or construction projects. Therefore, caution needs to be exercised at the time of booking to ensure that no guarantees are given as to transit or arrival times. This is important, as the financial consequences of guaranteeing a transit time or delivery date falls outside the scope of Club cover.

**IF YOU HAVE ANY QUESTIONS REGARDING THE CARRIAGE OF THESE TYPES OF CARGO, PLEASE DO NOT HESITATE TO CONTACT YOUR CLUB REPRESENTATIVE.**



# WORLD MENTAL HEALTH DAY: STRATEGIES FOR SHIPOWNERS AND MANAGERS

LUC HILL MARKETING MANAGER - MARITIME, MEDAIRE.

Ahead of World Mental Health Day, observed on 10 October, leading telemedical assistance provider, MedSea, an International SOS Company, shares insights about mental health on board and provides strategies for management to support seafarers.

We are all aware of the challenging environment seafarers face, often away from their families for extended periods of time; unable to access a social support system. These factors alone can exacerbate any mental health issues, so for shipowners and managers World Mental Health Day should serve as an opportunity to learn more about how to better support those at sea.

MedSea manage on average 5,000+ medical cases every year, responding to everything from minor scrapes and burns to serious medical emergencies. On a yearly basis only about 1%

of cases relate to mental health issues, which may indicate underreporting and provide an opportunity for education. Even when further professional counselling services are offered, uptake remains low, suggesting further work is required to destigmatise the perceptions around mental health and encourage seafarers to seek support when needed.

## UNDERSTANDING THE RELATIONSHIP BETWEEN MENTAL AND PHYSICAL HEALTH

A holistic approach to health recognises that emotional issues can manifest through physical symptoms. Stress and anxiety can lead to headaches, digestive problems, and other physical ailments. By facilitating access to quality medical services, regardless of the type of ailment, better support can be provided for mental health related issues onboard.

## CASE STUDY: INSOMNIA

How providing an open channel for communication, allowed the seafarer's overall health to be addressed in a more holistic manner:

1. A seafarer called MedSea: Reporting a low mood and inability to sleep, which was affecting their work performance
2. MedSea provided sleep hygiene information and relaxation techniques
3. During the consultation with MedSea the seafarer also disclosed anxious feelings, following a recent medical diagnosis of a family member
4. MedSea referred the crew member for further counselling where the seafarer was able to develop coping strategies
5. The seafarer's sleep improved as did their mood and counselling sessions were no longer required.

## STRATEGIES FOR MANAGEMENT TO SUPPORT SEAFARER MENTAL WELLBEING

### 1. PROMOTE OPEN COMMUNICATION

Encouraging open communication is vital. Shipowners and managers should create an environment where seafarers feel comfortable discussing their mental health concerns without fear of stigma or retribution. Regular check-ins can help identify issues early and provide the necessary support.

### 2. CONSIDER MENTAL HEALTH TRAINING

These programmes should cover topics such as recognising signs of mental distress, providing initial support, and knowing when to seek professional help. Creating on board mental health ambassadors can help to develop a more positive culture towards mental health and wellbeing.

### 3. PROVIDE ACCESS TO MENTAL HEALTH RESOURCES

Having access to services with professional medical oversight, such as MedSea, is crucial in supporting overall health. Some crew members may also benefit from access to faith-based services.

### 4. LISTEN TO THE NEEDS OF YOUR SEAFARERS

The Seafarers Happiness index reveals the complexity of factors that contribute to mental wellbeing on ships. Their latest findings (Q2 2024)<sup>1</sup>, fortunately revealed a stable picture with regards to factors like: connectivity, food, workloads and shoreside leave. This is positive news. However, to improve mental wellbeing on board, it is important to continue listening to the needs of your seafarers – perhaps through regular surveys or focus groups.

### 5. ENCOURAGE HEALTHY LIFESTYLE CHOICES

There is growing evidence that connects mental wellbeing with diet and healthy living. Your gut has two-way communication with your brain via various pathways such as the nervous system and immune system and chemicals (neurotransmitters). This highlights the increasing importance in ensuring that seafarers have adequate access to fruit, vegetables, nuts, legumes and whole grains. Alongside other healthy habits like regular physical exercise, mental outlook can be improved.

## BENEFITS OF SUPPORTING MENTAL WELLBEING

Half of cases opened by MedSea for mental health issues result in the seafarer needing to be repatriated to their home country for further care. As with many other medical conditions, early recognition and intervention can result in improved patient outcomes and fewer operational disruptions while at sea.

According to the WHO<sup>2</sup>, there can be a significant monetary return on investment for companies supporting mental wellbeing initiatives. Factors contributing to this return include improved productivity and fewer accidents, as well as wider reaching benefits, like the attraction and retention of seafarers and improving your company's brand image.

FIND OUT MORE ABOUT MEDSEA'S SOLUTIONS FOR SHIPS AT [WWW.INTERNATIONALSOS.COM](http://WWW.INTERNATIONALSOS.COM)

1. [https://www.seafarershappinessindex.org/wp-content/uploads/Seafarers\\_Happiness\\_Index\\_Q2\\_2024.pdf](https://www.seafarershappinessindex.org/wp-content/uploads/Seafarers_Happiness_Index_Q2_2024.pdf)  
2. <https://www.who.int/news/item/13-04-2016-investing-in-treatment-for-depression-and-anxiety-leads-to-fourfold-return>

# APPORTIONMENT OF LIABILITY IN COLLISION INVOLVING TWO SHIPS AT ANCHOR

COLLISIONS AND CLOSE QUARTERS SITUATIONS ARE A FREQUENT OCCURRENCE IN THE CONGESTED ANCHORAGES OFF CHITTAGONG. IN A RECENT JUDGMENT (**DENVER MARITIME LTD V BELPAREIL AS [2024] EWHC 362**), THE ENGLISH ADMIRALTY COURT CONSIDERED RESPONSIBILITY FOR A COLLISION BETWEEN TWO SUPRAMAX BULK CARRIERS, THE BELPAREIL AND KIRAN AUSTRALIA, THAT OCCURRED WHILE THEY WERE BOTH AT ANCHOR.

Both ships were discharging their cargoes to barges while anchored around 0.5nm away from each other. At about 2300 (over 2 hours before the collision, which occurred at 0110), BELPAREIL's crew noticed that their ship had begun to drag anchor. They tried to operate the main engine ahead, but it had limited impact due to engine problems. As BELPAREIL continued to drag anchor, it came into a close quarters situation with KIRAN AUSTRALIA. Although both ships manoeuvred to keep apart for some minutes, they eventually collided, with BELPAREIL's port bow making contact with KIRAN AUSTRALIA's starboard quarter.

Having examined the circumstances leading up to the collision, including the actions and decisions of both ships' crew, the court assessed liability at 70:30 in favour of KIRAN AUSTRALIA.

The court confirmed the principle that dragging an anchor is prima facie evidence of negligence. BELPAREIL was, therefore, presumed to be at fault as there was no evidence that the dragging had occurred without negligence, or could not have been prevented by the exercise of reasonable skill and care.

BELPAREIL was also found to have been negligent in failing to properly notify nearby vessels, including KIRAN AUSTRALIA, that it was dragging anchor and having problems with the main engine. The court said that such a warning should have been given by 2340 at the latest, as by then it was evident that BELPAREIL was struggling to control its position. However, BELPAREIL did not warn KIRAN AUSTRALIA that it was dragging anchor until 0015 and it was 0019 when a further warning was given that the ship had engine problems. Due to this delay in communication, KIRAN AUSTRALIA was unable to take early action to avoid the risk of collision, such as to heave anchor and sail from the location.

BELPAREIL was also criticised for its delay in calling for tug assistance. The Court ruled that tugs should have been requested by 2340 and BELPAREIL should not have waited until 0032, by which time the situation had significantly deteriorated. However, the court found this was not a causative factor in the collision because no tugs were ultimately available.

The court also found that BELPAREIL was at fault in failing to drop its second (starboard) anchor when the ship realised it could not rely on its main engine or otherwise control the dragging. The court held that deploying a second anchor could have stabilised BELPAREIL and the collision with MV

KIRAN AUSTRALIA could have been avoided. In the court's view, the failure to drop the second anchor directly contributed to the eventual collision.

In the final minutes before the collision, both ships were found to be at fault for the navigational decisions they made. BELPAREIL maintained full ahead speed, with the intention of staying clear of KIRAN AUSTRALIA by shifting to starboard, while KIRAN AUSTRALIA allowed itself to fall astern. The court found that both ships were negligent in their actions, with each ship contributing to the collision by not altering its course.

In apportioning liability, the court concluded that both ships were at fault, but BELPAREIL bore more than twice the share of responsibility for the collision. BELPAREIL had created a perilous situation and failed to appropriately correct its actions. The court therefore found that BELPAREIL's actions were more significant in leading to the collision and apportioned 70% liability to BELPAREIL and 30% to KIRAN AUSTRALIA.

This case highlights the importance of timely and effective communication, competent seamanship from both ships in a close quarters' situation, and the proactive management of a ship's anchorage position to avoid collisions. Whenever a ship is at anchorage it is suggested that:

1. **Proper and effective navigational watch is maintained, especially when barges are alongside for cargo operations as they can contribute to the dragging of anchor, particularly in bad weather conditions**
2. **The main engines are ready to operate on short notice and to be employed as soon as possible, especially when weather conditions start deteriorating. Any routine engine maintenance should be put on hold, especially when the weather is forecast to turn bad**
3. **The ship's SMS procedures are initiated as soon as it becomes evident that the ship has started dragging its anchor**
4. **When a ship starts to drag anchor, the situation should be communicated without delay to port traffic control and surrounding vessels on the recommended VHF channels**
5. **Do not delay dropping a second anchor if it appears that one anchor is insufficient to maintain the ship's anchorage position.**



## COURT GUIDANCE ON INTERPRETATION OF FORCE MAJEURE CLAUSE

**IN RTI LTD V MUR SHIPPING BV [2024] 1 LLOYD'S REP 621, THE SUPREME COURT PROVIDED GUIDANCE ON THE INTERPRETATION OF A FORCE MAJEURE CLAUSE WHERE THE EVENT OR STATE OF AFFAIRS COULD NOT BE AVOIDED BY THE PARTY CLAIMING FORCE MAJEURE TAKING REASONABLE STEPS. THIS MATTER QUESTIONED TO WHAT EXTENT PARTIES MUST TRY TO MAINTAIN THE CONTRACT BEFORE DETERMINING THAT AN EXTERNAL INCIDENT HAS CAUSED THE CONTRACT TO BE INEFFECTIVE AND CAPABLE OF BEING DECLARED AS AT AN END.**

By a Contract of Affreightment dated 9 June 2016, MUR Shipping undertook to carry cargoes of bauxite for the charterers, RTI Ltd, from Conakry in Guinea to Dneprobugsky in Ukraine. The COA contained a force majeure clause which read

"... neither Owner nor Charterers shall be liable to the other for loss, damage, delay or failure in performance caused by a Force Majeure Event as hereinafter defined. ... A Force Majeure Event is an event or state of affairs which ... cannot be overcome by reasonable endeavours from the Party affected."

On 6 April 2018, the charterers became subject to US sanctions. The impact of the sanctions was a delay caused to the charterer's US dollars banking, leading to the charterers' inability to pay hire in US dollars within a reasonable period or with certainty. This dispute questioned the extent of the "reasonable endeavours" that the owner, as the affected party, was obliged to take before

this state of affairs would be recognised as a Force Majeure event.

A "reasonable endeavours" proviso will be implied into a force majeure clause in the event that it is not expressly stated. The relationship between "reasonable endeavours" and "overcome", or its synonyms, was considered and the Court held that any obligation to overcome an event will always be interpreted as an obligation to "overcome only by reasonable endeavours". The test of "reasonable endeavours" is one of evaluative judgment geared towards achieving contractual performance.

A party claiming force majeure must be able to show that the force majeure event caused a failure in the performance of the contract according to its terms. That is to say that the party is not required to find a solution by changing the terms of the contract or that the parties are obliged to fulfil a different contract. The charterers' argued that the difficulty caused by the US sanctions could have been overcome if the owner accepted payment of hire in euros rather than US dollars. The court rejected this argument because it caused a change in the terms of the contract. A contractual term can only be altered to avoid classifying an event as a force majeure event if the contract explicitly permits such changes with clear wording.

In contracts which allow for different options, such as the nomination of a vessel under a COA, the option once chosen crystallises as a contractual term. The option cannot then be changed to avoid a force majeure event unless the contract expressly permits the option to be changed.

Both owners and charterers are not obliged to give up their contractual rights in the contract simply to avoid identifying an event or state of affairs as being force majeure.

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We hope you enjoyed this issue of Risk Watch. We are actively seeking ways to maintain and increase the usefulness, relevance, and overall appeal of our articles. If you have any ideas or comments, please send them to:

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