



SHIPPING	
JUNE 2013	
1	<p>Responsibility for Stowage</p> <p>The latest case note issued by Stone Chambers has an extensive report by barrister Neil Henderson of Yuzhny Zavod Metall Profil LLC v Eems Beheerder B.V. (“the M/V EEMS SOLAR”) in the English which considered the effective transfer of responsibility for stowage of steel coils from a contractual carrier under a bill of lading.</p> <p>He writes:-</p> <p>The case is of obvious importance to the industry given it involved the widely-used Congenbill 1994 and Gencon 1994 charterparty. The clause 5 in question was amended, but only insofar as the words “and taken from the holds and discharged” had been deleted, and accordingly the decision is limited to the effective transfer of responsibility for loading and stowing operations. However, there is no reason why the principle recognised in The Eems Solar ought not to apply to discharging operations as well if the incorporated clause 5 is in its unamended form.</p> <p>The Eems Solar decision extends the protection afforded to contractual carriers by the incorporation of charterparty clauses which transfer responsibility away from the contractual carrier beyond that recognised by the House of Lords in The Jordan II so as to include situations where the transfer of responsibility clause in the incorporated charterparty does not include the words “shipper” and/or “receiver”.</p> <p>Read his note here:-</p> <p>http://tinyurl.com/eemssolar</p>
2	<p>P&I Newsletter--The Charterer</p> <p>The June Edition of the newsletter published by the Charterer's P&I Club has articles on electronic bills of lading and storm precautions in Australia. It also asks ten pertinent questions about the International Group of Clubs and the part they play in the insurance of charterers. The article concludes:-</p> <p>The IG clubs have evolved to provide high limits of insurance and service to Shipowners. It is debatable whether the IG in its current form is the best structure; but it is a system that has stood the test of time. From a charterers perspective the IG must be seen as a hostile organization, the needs of shipowners inevitably prevail and the IG actively promotes the interest of shipowners to the detriment of charterers.</p> <p>It is nonsensical for a pure charterer to regard an IG P&I club as a logical home for his insurance. The Charterers Club is the longest standing specialist in the Charterers market and has an excellent reputation for service built up over decades. Our security is rated higher than any of our competitors, including all the IG clubs and we are the natural home for professional Charterers that want high class bespoke service and the best financial security</p>



	<p>available.</p> <p>Read the newsletter in full here:-</p> <p>http://www.exclusivelyforcharterers.com/june2013.html</p>
<p>3</p>	<p>New Visa Requirements for Australian Offshore Resources Industry</p> <p>Nathan Cecil and Claire Morgan of the Sydney firm of Norton White write:-</p> <p>Proposed new laws will mean that many foreign offshore resources industry workers previously not required to hold Australian work visas will now require Australian work visas.</p> <p>Foreign workers employed to work within Australia’s “Migration Zone” (essentially, Australia’s landmass and/or offshore installations) are required to hold relevant visas entitling them to work. Recently, in <i>Allseas Construction SA v Minister for Immigration and Citizenship</i> [2012] FCA 529, the Federal Court held that a vessel located outside of the “Migration Zone” but engaged to lay pipeline along the seabed which extended to within the “Migration Zone”, was not itself considered to be within the “Migration Zone” and, as such, there was no requirement for the crew of that vessel to hold Australian visas. The new Migration Amendment (Offshore Resources Activity) Bill 2013 is intended to overcome that decision and extend the definition and scope of the “Migration Zone”.</p> <p>Under the new regime, the definition of “Migration Zone” is extended to include any activities outside of Australia which are connected to any offshore resources activity within Australia. Accordingly, any worker who is engaged to participate in or support an Australian offshore resource activity, regardless of whether or not the worker is based in or enters a defined area falling within the scope of the “Migration Zone”, must hold a valid Australian work visa. These amendments will enable the Australian Government to impose visa conditions and regulate the work force in the Australian offshore oil and gas industry, even where those workers never enter Australian territory.</p> <p>These proposed changes will require companies employing foreign workers to adhere to stringent migration and employment legislation. The amendments are scheduled to be implemented from early 2014 in order to allow enough time for the offshore resources industry to make relevant visa arrangements for its workers. It is expected that a new special purpose visa for offshore resources industry workers will be introduced shortly.</p> <p>Australian offshore resources industry participants who employ foreign workers will need to consider whether their foreign workforce will be required to hold the expected new special purpose visas. Norton White is able to assist those in the oil and gas industry in order to ensure compliance with the current and proposed legislation governing offshore activity.</p> <p>nathan.cecil@nortonwhite.com</p> <p>claire.morgan@nortonwhite.com</p>
	<p>Barely Believable Behavior of Banks</p>



4	<p>Courtesy of the Browser we read this review of British Banking since 2008 by John Lanchester which appears in the London Review of Books. The narrative is excellent and the sense of context very acute. Your editor is long enough in the tooth to recall how bank failures often used to have some kind of shipping story bound into their passing. The Jonson Mathey bank was highly exposed to Mahmoud Sipra and his El Saeed group. One of the largest debtors to the BCCI (who owed some 15 times its capital) were the Gokal Brothers of Comarine fame. But as the banking industry in London advanced since the 1980s, the feedstock for losses has come from over leveraged trades in derivatives, money laundering, Libor rate rigging and the tsunami of missold payment protection insurances in the UK. Lanchester's piece is strong on putting a price on what each head of misdeed is costing the banks. He describes the triste climate of banking today.</p> <p>http://www.lrb.co.uk/v35/n13/john-lanchester/are-we-having-fun-yet</p>
5	<p>Pushing Ahead with Security Standards</p> <p>News have reached us of a new specialist service offered by our good friends at RTI Forensics who with the Security Association for the Maritime Industry (SAMI) have launched a pilot scheme assessing companies against the ISO/PAS 28007:2012 Guidelines for Private Maritime Security Companies (PMSC) providing privately contracted armed security personnel (PCASP) on board ships.</p> <p>The pilot study will see RTI working with Bowline Defence, Control Risks Group, Securewest International and Zeal Global Maritime Solutions during its first phase.</p> <p>Speaking of the launch, Peter Cook of SAMI stated, “Private Maritime Security companies have supported the development of ISO 28007 to demonstrate their willingness and capability to embrace improved standards and to highlight their commitment to quality and well trained professionalism.”</p> <p>He added, “Now companies finally have a chance to put that pledge to the test and open themselves to rigorous scrutiny. We are sure that they will excel and that PMSCs within the SAMI membership will continue to keep the maritime industry safe. The association has worked hard to support the efforts of the maritime industry, as well as its members, as the complex journey towards standards and certification has progressed.</p> <p>The pilot program runs from June until December 2013, during which time RTI will audit a limited number of companies and compare their findings with other pilot scheme certifiers through regular meetings at The United Kingdom Accreditation Service (UKAS).</p> <p>It was stressed that only at the end of the year, once the pilot scheme is completed and the certifying bodies are accredited by UKAS, will PMSC’s be deemed to have satisfied the ISO28007 standard.</p> <p>Peter Cook emphasised this and warned the industry, “If any PMSC claims to be 28007:2012 certified before the end of the year, they are mistaken”.</p>
	<p>People and Places</p>



<p>6</p>	<p>Malcolm Newman has been elected as the International Underwriting Associations’s new Chairman. Mr Newman is Managing Director of SCOR’s London Hub. He takes over from Stephen Riley, Executive Director at Global Aerospace, who has led the association for the past seven years.</p> <p>-----</p> <p>Three new members have been appointed to the Dover Harbour Board by the Secretary of State for Transport.</p> <p>They are Frank Martin, Deputy Chairman and former Chief Executive at Hornby; Bob Lane, a board member of the Homes and Communities Agency and previous Chairman of the London Thames Gateway Development Corporation; and Erik Østergaard, CEO of Danish Transport and Logistics.</p> <p>-----</p> <p>The US Senate voted 93-4 to appoint Michael Froman, President Barack Obama's long-time friend and nominee, as the next US Trade Representative only a few weeks ahead of the start of negotiations on a US-European Union trade agreement</p> <p>-----</p> <p>Andrew Torrance, the current head of Allianz UK, is to become the CEO of the German insurer's US operation Fireman's Fund.</p>
<p>7</p>	<p>Brazil - contributed by Kincaid Mendes Vianna Advogados</p> <p><u>ANTAQ introduces computerised charter management system</u></p> <p>A number of resolutions were recently published by the National Agency for Water Transportation (ANTAQ) that set forth provisions governing the charter of vessels by Brazilian shipping companies. The main difference between the new resolutions and those formerly in force is the implementation of a computerised charter management system for offshore and support navigation, available on ANTAQ's website.</p> <p>Author: <u>Godofredo Mendes Vianna</u></p> <p><u>Read more</u> http://www.internationallawoffice.com/?i=55592&l=7JHZLJN</p> <p><u>Godofredo Mendes Vianna</u></p>



8	<p>Cyprus - contributed by Andreas Neocleous & Co LLC</p> <p><u>New circular sets out revised safety equipment guidelines</u></p> <p>The Department of Merchant Shipping recently published new guidelines on periodic inspection and maintenance of safety equipment. The revised guidelines apply to all Cyprus-registered ships and elaborate on the minimum recommended level of maintenance and inspections for fire protection systems and appliances, stipulating that all relevant equipment must be inspected by a suitably qualified person.</p> <p>Author: <u>Vasileios Psyrras</u></p> <p>Read more http://www.internationallawoffice.com/?i=55592&l=7JHZLKJ</p>
9	<p>India - contributed by Mulla & Mulla & Craigie Blunt & Caroe</p> <p><u>Court overturns arrest order in beneficial ownership dispute</u></p> <p>The Bombay High Court has again considered the issue of beneficial ownership, as covered by the International Convention on the Arrest of Ships. The court held that for the corporate veil to be lifted to ascertain the real owner, fraud must be alleged - simply alleging beneficial ownership through common address, common signatures and common directors without supporting evidence is not enough.</p> <p>Author: <u>Shardul J Thacker</u></p> <p>Read more http://www.internationallawoffice.com/?i=55592&l=7JHZLLE</p>
10	<p>Norway - contributed by Wikborg Rein</p> <p><u>Seller's credit: a versatile tool</u></p> <p>Where a seller grants a buyer the right to defer payment of part of the purchase price, the seller is in effect giving the buyer a credit for the part of the purchase price which is deferred. Seller's credit is commonly used in the sale of goods in shipping and offshore construction contracts. Although versatile and functional, the use of seller's credit may give rise to legal challenges which are best addressed at an early stage.</p> <p>Authors: <u>Henrik Hagberg, Øyvind Axe, Ena Aarseth Barder</u></p> <p>Read more http://www.internationallawoffice.com/?i=55592&l=7JHZLMA</p>



<p>11</p>	<p>Finland - contributed by Hammarström Puhakka Partners, Attorneys Ltd</p> <p><u>Does stevedore work for vessel or cargo?</u></p> <p>It is sometimes unclear whether a stevedore works for the vessel or the cargo. A longshoreman was injured while working onboard and the case was remitted to a competent maritime court. The court found that since the vessel had not ordered the stevedore's work, the injured longshoreman was not acting in the interest of the vessel.</p> <p>Authors: <u>Matti Komonen</u>, <u>Herman Ljungberg</u></p> <p>Read more http://www.internationallawoffice.com/?i=55592&l=7JGFN1Y</p>
<p>12</p>	<p>Here They Come</p> <p>The week elapsed saw the naming of the first of the Maersk Triple E Ships. Here is a clip from the naming ceremony</p> <p>https://vimeo.com/68399450</p> <p>Your editor recalls from his time in Hong Kong in the 1990s, the approach of the comparative tiddler Regina Maersk as she first made her way East. She was soon called "the Hoover" by freight forwarders for her ability to attract every stick of cargo available in the ports where she called. The Mærsk Mc-Kinney Møller is getting on for three times the size, marking a new scale of magnitude for the good ship Leviathan.</p> <p>This ship is calculated to attract attention for years to come. Maersk seems to accept that show boating is part of the package. You can follow the ship and sign up for a newsletter at this site:-</p> <p>http://www.worldslargestship.com/.</p> <p>Meanwhile we expect a great deal of information and contention as the casualty and salvage implications of these new ships occur to our Readers.</p>
<p>13</p>	<p>Is a Freight Forwarder a "Merchant" under a Bill of Lading?</p> <p>A recent Maritime Alert issued by the Canadian firm of BLG (Border Ladner Gervais) and written by Jean-Marie and Robin Squires examines the sticky terrain of the liens of unpaid forwarding agents in relation to shipowners:-</p> <p>In the liner trade, carriers purport to bind a wide range of parties to the terms and conditions of their Bills of Lading by defining the "Merchant" with whom they purport to contract very broadly. It is safe to assume that the shippers, consignees and endorsees listed on Bills of Lading are parties to the contract of carriage, but what about a freight forwarder identified solely as a "forwarding agent"?</p> <p>Read the alert here:-</p>



	<p>http://www.blg.com/en/NewsAndPublications/Documents/Publication_3401.pdf</p>
14	<p>Carrying Solid Bulk Cargoes Safely</p> <p>Mutual Clubs in General and the UK Club in particular have long histories of publishing helpful technical books and pamphlets for their members. Often these are based on the things the Clubs have learned when stowage is in some way less than ideal. The UK Club has a long history of calling in expertise from experts and members and producing an expression of good practice. In its day, the Carefully to Carry series which began in the 1970s was well ahead of the curve and still rewards reading. The latest publication addresses the dangers which always stalk the bulk trades:-</p> <p>When bulk cargoes shift, liquefy, catch fire or explode as a consequence of poor loading procedures, the consequences can be massive. Ships may capsize, lose stability or sustain severe structural damage.</p> <p>Such happenings enhance the risks - and the occurrence - of death, injury, insurance claims, operational delay and considerable expense.</p> <p>This has prompted the UK P&I Club, Lloyd's Register and Intercargo to produce a pocket guide and checklist for ship's officers and agents who arrange cargoes for loading.</p> <p>Carrying solid bulk cargoes safely: Guidance for crews on the International Solid Bulk Cargoes Code outlines the precautions to be taken before accepting solid bulk cargoes for shipment; sets out procedures for safe loading and carriage and details the primary hazards associated with different types of cargoes. A quick reference checklist and flowchart summarise the steps to be followed.</p> <p>To obtain a copy online, click on the link below:-</p> <p>http://www.ukpandi.com/loss-prevention/article/carrying-solid-bulk-cargoes-safely-5996/</p>
15	<p>Shiparrested Conference</p> <p>News reaches us from the 10th Shiparrested.com Conference for maritime lawyers held in Marrakesh on 16-18 May 2013. The conference which was attended by more than 120 lawyers from 31 countries, as well as senior members of the Moroccan judiciary singled out Edward Kuznetsov, from Marine Legal Bureau in Latvia for an award as the the Best Member of The Shiparrested Network 2003-2013. Kuznetsov is a noted maritime expert before the Latvian courts and a recognized maritime arbitrator, apart from being the longest standing member in Laviaour long lasting member in Latvia</p> <p>http://www.mlb.lv/news-archive/best-member-of-the-shiparrested-network-2003-2013</p> <p>An idea of the work of the Shiparrested.com network can be gleaned from the website, which contains many interesting publications:-</p> <p>http://www.shiparrested.com/</p>



<p>16</p>	<p>Shipowners P&I Club Results</p> <p>Peter Owen has sent in the new Annual Report from the IG's small ships Club which describes satisfactory growth in current market circumstances. The group of insurers contending for the small ships premium dollar these days is not small but the Club is a good advertisement for conservative underwriting and frugal management.</p> <p>Here is a synopsis:-</p> <p>The Club saw the number of vessels entered grow by some 4.6% in the year to nearly 33,000, their total tonnage rising by 10.8% to 21.9 million GT. This led to a 5.8% increase in gross premiums of USD 221.9 million.</p> <p>As other clubs have also reported, Shipowners saw claims frequency and the average cost of claims per ton increasing, particularly with higher value claims. However, there was an improvement in claims reserves from previous years and the overall underwriting surplus reached USD 8.9 million representing a combined ratio of 95.5%. The Club's investment portfolio performed very strongly with a 7.8% absolute return helping to achieve an overall surplus of USD 40.9 million, increasing capital and free reserves to USD 275.3 million, over 17% up on the previous year.</p> <p>In his review of the annual results Chairman Donald MacLeod points out that the Club has produced an average combined loss ratio over the past five years of 88.9%.”</p> <p>The Club's Annual Report may be downloaded from here:-</p> <p>http://www.shipownersclub.com/ebooks/ar2013/index.html</p>
	<p>People and Places</p> <p>Singapore Shipping Association Honorary Secretary and International Committee Chairman Esben Poulsson has been elected as a Vice Chairman of the International Chamber of Shipping (ICS).</p> <p>His election took place at the ICS's recent Annual General Meeting in Oslo. He joins three other Vice Chairmen for 2013-2015: Mr. John C Lyras (Greece), Mrs. Karin Orsel (Netherlands) and Mr Gerardo Borromeo (Philippines).</p> <p>-----</p> <p>Henrik Ramskov has been appointed CEO of the newly merged company Thorco Shipping, created from the combination of Clipper Projects and Thorco Shipping. Andreas G. Jørgensen, current global head of operations Clipper Projects, will move into the role of global head of operations at Thorco Shipping. Krisitan Morch will join the board of Thorco Shipping.</p> <p>.-----</p> <p>The Long Beach Board of Harbor Commissioners has announced the appointment of Al Moro,</p>



<p>17</p>	<p>chief harbour engineer, as the US port's interim executive director.</p> <p>Moro, who joined the Port of Long Beach in 1997 as a civil engineer, currently oversees all administrative and technical activities for the Port's engineering programs, including nearly US\$4 billion in capital improvement projects.</p> <p>-----</p> <p>The International Bunker Industry Association (IBIA) has appointed Jens Maul Jørgensen of Oldendorff Carriers as its Vice-Chairman. He will therefore become Chairman in April 2014. Dilip Mody of Global Fuels & Lubricants has been re-appointed Honorary Treasurer.</p> <p>The appointments were made at the recent meeting of the association's board in Istanbul.</p> <p>-----</p> <p>Informa has announced the appointment of Fotini Lontou as Chief Content Officer for Informa Business Information. Lontou has worked for the company for 17 years, most recently as Chief Executive of IBI's Lloyds List Group.</p> <p>During her tenure of leadership at the Lloyd's List Group, Lontou was responsible for the launch of two of the company's print to digital transitions, www.LloydsListIntelligence.com and www.lloydslist.com</p> <p>Dr Philip Smith, Group MD of IBI's Commodities division which includes The Public Ledger and Agra Europe will be additionally taking over responsibility for the Lloyd's List Group</p> <p>-----</p> <p>The Wallem Group has appointed Ray McNamara as the new managing director for its Shipmanagement Division</p> <p>-----</p> <p>Lloyd's Register has appointed Chris Finlayson, CEO of BG Group and Ellis Armstrong, ex-CFO of E&P at BP, as non-executive directors on the board of the Lloyd's Register group.</p>
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18	<p>Netherlands - contributed by AKD</p> <p><u>Right of retention could benefit shipping creditors</u></p> <p>A significant number of vessels are being arrested in the current shipping market because of payment problems or as the result of shipowner insolvencies. Therefore, it can be useful to exercise a right of retention in respect of a vessel in order to secure the right to qualify as a creditor of the shipowner. Even though such rights are not prioritised, holders of them may still be in a reasonably strong position under Dutch law.</p> <p>Author: <u>Hannah Verhoeven</u></p> <p>Read more http://www.internationallawoffice.com/?i=55592&l=7JF0SL7</p> <p><u>Hannah Verhoeven</u></p>
19	<p>Philippines - contributed by Del Rosario & Del Rosario law Offices</p> <p><u>Seafarer's claim on three-day mandatory reporting requirement denied</u></p> <p>In two recent decisions the Supreme Court denied seafarers' claims for disability compensation. In one case, a seafarer was repatriated with burn injuries. He reported to the manning agents nine days later. Two weeks later, he died of pneumonia and his widow filed a claim. The court held that the widow was not entitled to disability benefits as the seafarer had failed to comply with the three-day mandatory reporting requirement.</p> <p>Author: <u>Ruben T Del Rosario</u></p> <p>Read more http://www.internationallawoffice.com/?i=55592&l=7JF0SLX</p> <p><u>Ruben T Del Rosario</u></p>
20	<p>Belgium - contributed by Kegels & Co</p> <p><u>Validity of jurisdiction clauses by reference to carrier's website</u></p> <p>Over the past few years, the Antwerp Commercial Court has considered on multiple occasions the question of whether a carrier's terms and conditions published on its website can be validly incorporated into an agreement. Although the court has provided insightful guidance on the matter, further questions remain unanswered.</p> <p>Author: <u>Pieter Neels</u></p> <p>Read more http://www.internationallawoffice.com/?i=55592&l=7JDH5LA</p> <p><u>Pieter Neels</u></p>



21	<p>South Africa - contributed by Bowman Gilfillan</p> <p><u>Marine insurance: High Court revisits insurable interest</u></p> <p>In the recent case of Lorcom Thirteen (Pty) Ltd v Zurich Insurance Company South Africa an interesting factual scenario gave the Western Cape High Court an opportunity to assess the correct approach to the question of insurable interest under South African law. The case concerned the MFV Buccaneer, a fishing vessel lost at sea in 2008.</p> <p>Author: <u>Jeremy Prain</u></p> <p>Read more http://www.internationallawoffice.com/?i=55592&l=7JDH5M3</p>
22	<p>Ukraine - contributed by Interlegal</p> <p><u>Ukrainian shipbuilding: awaiting a renaissance</u></p> <p>The Ukrainian shipbuilding industry has lost most of its competitive edge in both international and domestic markets. As such, Parliament recently adopted a law providing for a 10-year economic experiment that would create the conditions and incentives necessary to increase production in the shipbuilding industry. However, doubts remain as to whether this economic experiment will yield the desired results.</p> <p>Author: <u>Arthur Nitsevych</u></p> <p>Read more http://www.internationallawoffice.com/?i=55592&l=7JDH5MZ</p>