Circular From NORTH
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It's A Steel! Learning From Recent Wet Damage Claims

Avoidable claims related to the carriage of finished and semi-finished steel products continued to occur in 2022.

Many of these issues experienced are no different to as before, highlighting the importance of recording the preload condition and defending yourself against allegations of unseaworthiness with strong evidence. In some recent cases it became apparent that the preload condition of the steel cargo was poor, whether it was physical damage through impact or corrosion damage from wetting. And when such damage to the cargo is noted at discharge, a high value claim can result.

Remember the survey

Precautionary surveys on steel cargoes are, generally, in two parts. The first part concerns the monitoring and recording of the apparent order and condition of the cargo being loaded (or being nominated for loading).

If there are issues with the cargo condition, then the two usual options are to either clause the mate's receipts and bills of lading as appropriate, or to replace the damaged cargo with sound cargo.

The second function of the steel preload survey is the hatch cover test, where the hatch covers and other cargo hold openings are checked for weathertightness. Contemporaneous evidence of properly conducted weathertightness testing is vital in proving seaworthiness (which implies cargoworthiness) and defend against allegations of poor vessel maintenance.

Whilst hose tests are acceptable, it should be noted that ultra-sonic testing (UST) is more accurate as it considers hatch cover compression and therefore its sealing ability when in a dynamic condition (e.g., when the vessel is flexing at sea). Confidence in the weathertightness of your hatch covers – and the evidence to support this – will not only prevent water ingress into the holds but will strengthen your position when faced with a claim.

It should also be noted that an independent survey that includes hatch cover testing is more compelling evidence in the event of a future claim than that of the crew doing their own hatch lid testing.

North Members are reminded that we will assist with the arranging and costs of steel preload surveys, and that you should approach your usual P&I contact to discuss further.

A mixed bag

In other high-value steel wetting claims, we have seen instances where part of the cargo of steel is loaded onto the vessel in good condition, but then wet cargo is loaded into the same hold.

This usually occurs when it rains during loading, and the remaining steel for the same hold has been wetted whilst sat on the quay. When the wetted cargo is later loaded on top of the dry cargo, that too becomes damaged.

This becomes even more complicated where there are multiple bills of lading and different receivers are involved.

Because of the clear risks of cargo damage claims, this practice should be avoided.

Rain letters

There have been instances where steel cargo has been worked in rain conditions, despite the Master's initial protests. Charterers then may offer to issue a 'rain letter' in exchange for owners agreeing to continue loading.

P&I cover is at risk where an owner loads or discharges a cargo in the rain in circumstances where it was entitled to refuse to do so. In such circumstances a rain letter, under which the issuer indemnifies the carrier against the consequences of loading or discharging in the rain may stand as an alternative to cover.

Clausing bills of lading

Issues arise when, despite the steel preload survey showing preshipment condition issues, bills of lading have not been claused to reflect the apparent condition of the steel on loading. Instead, the carrier has relied solely on a survey report.

This is an inherently risky practice, even where the carrier inserts a so-called RETLA clause into the bill of lading, which is intended to qualify a statement that the cargo was loaded in apparent good order and condition by saying the carrier does not represent the cargo is "free of visible rust or moisture".

As the English court decided in The Saga Explorer, this does not protect the carrier where a bill misdescribes the condition of steel which exhibits more than superficial rust/moisture damage on shipment. Cargo claims arising from misdescription of cargo may fall outside the scope of P&I cover.

Source of Information: The North P&I Club