

## **Welcome to TT Talk, No. 74 in the series.**

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### **1. Club presents Logistics award**

For the last four years, the Club has sponsored and presented an annual Hall of Fame award as a special recognition of an individual who has made a significant personal contribution to the logistics and supply chain industry in Asia.

This year at a ceremony in front of more than 350 industry leaders in Shanghai, Andreas Mueller, regional director of the Club's Asia-Pacific region, presented the award to Luo Kaifu, the president of the China International Forwarders Association and vice president of FIATA. Mr Luo, formerly president of Sinotrans, joins previous Hall of Fame luminaries Tun Dr Mahathir bin Mohamad, former prime minister of Malaysia, Robert Yap (YCH Holdings) and John Meredith (Hutchison International Terminals).

Mr Mueller commented: "As a transport insurance provider with a loyal and growing number of policyholders in Asia and particularly in greater China, TT Club has consistently championed professionalism and best practice in the industry. Mr Luo's induction into the Hall of Fame is deserved recognition for the outstanding qualities he has demonstrated over many years and his sterling work in representing the interests of his country's shipping community."

### **2. Irish (forwarders') eyes are smiling**

It is not often that we report legal developments from Ireland, but we are grateful to Michael Slevin of the Irish International Freight Association (IIFA) for drawing our attention to the decision of the Dublin circuit court in *Modern Tool (Ireland) Ltd v Alpi (Ireland) Ltd*. (Court list No. 3612/99).

Modern Tool had contracted with Alpi to move a consignment of machinery by road from Italy to Dublin but when it arrived Modern Tool could not immediately accept it. They therefore asked Alpi to offload the cargo and hold it in a warehouse until such time as they could take delivery. This turned out to be about a week but, when the consignment was being loaded to the local delivery vehicle, it fell and was damaged. Modern Tool's insurers claimed EUR 8887; Alpi accepted responsibility but argued that its liability was limited by reference to the IIFA conditions. Insurers argued that the CMR convention applied.

At trial the judge, having consulted numerous decisions from other European jurisdictions, held that the CMR transit had come to an end when the consignment was offloaded at Alpi's warehouse on Modern Tool's instructions. All the services rendered thereafter were subject to the IIFA conditions, which had been clearly incorporated in the contract. The IIFA conditions include a time-bar of nine months. Unfortunately for them, the cargo insurers had been concentrating on the CMR argument and had omitted to obtain a time extension before this IIFA limit expired and their claim was therefore held to be time-barred. Had the conditions not been in place, the standard time bar under the Irish statute of limitations would have applied, and the claimants would have succeeded.

The case illustrates once again the need to incorporate clearly standard trading conditions at the outset of any commercial relationship. STCs are not to be regarded as an alternative to

statutes or conventions (such as the Hague/Visby Rules, US-COGSA or CMR) but as complementary to them. The conventions etc do not necessarily cover all eventualities that can arise during a complex transport operation or, indeed, all aspects of a contractual relationship. As this Irish case demonstrates, you need to have trading conditions in place for those times when the conventions do not apply.

An important element in this case was the fact that Alpi had incorporated its conditions in an exemplary manner, with a "user-friendly" accompanying letter and getting the customer's signature on an acceptance.

### **3. Don't turn a drama into a crisis**

From time to time the Club receives an approach from a member asking for public liability cover for some special event being held on its land. These requests often come from port authorities and similar bodies with land along the waterfront, possibly areas no longer being used for operational purposes. They have been approached by a promoter wishing to stage an event on the land: the events may range from something with maritime connections, such as a boat show or a (friendly!) visit by warships, to distinctly non-maritime pop concerts, operas and open-air dramas.

In response to these demands, the Club has now produced a set of guidelines for landowners in port areas, setting out the requirements. Essentially, the Club's advice is:

- The landowner may still be liable for any injury, even if the public is admitted for free

- Make sure the promoter is competent and able to handle the event

- Make sure the promoter has adequate public liability insurance of his own

- Talk to the Club about the plans as early as possible

- While the running of the show should be handed over to the promoter, the landowner needs to keep an eye on the plans, to ensure that he does not end up with a claim for negligence. There should be a joint risk assessment, in conjunction with the promoter and the authorities responsible for public safety (police, fire, town or city council)

- Admitting members of the public to areas normally used for operations may compromise the port's ISPS status. Operational areas must be separated from the public access area by a fence, policed if necessary, to stop unauthorised access.

The full text of stoploss bulletin 16 can be downloaded from the Club's website

<http://www.ttclub.com/ttclub/ttclub.nsf/HTML/8A94BEC16CB17089802570B60051ED4E>

### **4. And finally ...**

We are indebted to Reuters' Tokyo bureau for this story:

A giant white radish that won the hearts of a Japanese town by valiantly growing through the urban asphalt was in intensive care at a town hall in western Japan after being slashed by an unknown assailant.

The "daikon" radish, shaped like a giant carrot, first made the news months ago when it was noticed poking up through asphalt along a roadside in the town of Aioi, population 33,289. Last week local residents, who had nicknamed the vegetable "Gutsy Radish", were shocked -- and in some cases moved to tears -- when they found it had been decapitated.

TV talk shows seized on the attempted murder of the popular vegetable and a day later, the top half of the radish was found near the site where it had been growing.

A town official said on Thursday the top of the severed radish had been placed in water to try to keep it alive and possibly get it to flower. Asked why the radish -- more often found on

Japanese dinner tables as a garnish, pickle or in "oden" stew -- had so many fans, town spokesman Jiro Matsuo said: "People discouraged by tough times were cheered by its tenacity and strong will to live".

We cannot understand why they just don't subscribe to TT Talk instead.

## 5. Conclusion

We hope that you will have found the above items interesting. If you would like to have further information about any of them, or have any comments you would like to make, please email the editor at [tt.talk@ttclub.com](mailto:tt.talk@ttclub.com). We look forward to hearing from you.

Andrew Trasler  
Editor  
On behalf of  
TTMS (UK) Ltd, London

David Martin-Clark  
Legal Editor  
Shipping & Insurance Consultant  
Maritime Arbitrator  
Commercial Disputes Mediator

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