

A NOTE FROM THE EDITOR

The launch of TT Talk last month provoked a tremendous amount of interest around the world. In particular, the article entitled "Time for a re-think?" prompted comments from many sectors and interested parties. As a result, I thought it would be interesting to introduce a section dedicated to your comments. "Your Letters" will now become a regular feature of TT Talk, so if you would like to comment on any of the articles, or would simply like to get something off your chest, please feel free to write in!

Our e-mail address is: news.ttclub@thomasmiller.com

Our website address is: www.ttclub.com

Finally, a health warning. We welcome contributions from outside sources but must stress that where this is the case, the views represented in such articles do not necessarily represent the views of the TT Club.

Christine Williams

2. TT CLUB INTRODUCES NEW SUNRISE COVER

In these times of uncertainty and mergers within the insurance market, an operator cannot leave his insurance arrangements to chance. As a direct response to these uncertainties, the TT Club has recently launched its sunrise cover offering an initial free period of contingent cover for a maximum of 30 days.

Quite simply, an operator is given a total period of insurance for 395 days. There is no additional premium for the initial period, but any further extension of the period of insurance beyond 395 days will be charged on a pro-rata basis.

The initial period of insurance covers the operator for failure of his current insurers to meet their obligations within a stated period of time from the date when such obligations arose.

If you would like to receive more information about this cover, please contact your insurance broker or your local TT Club office.

Contributor: Paul Neagle, TT Club - London

3. ILLEGAL IMMIGRANTS BY THE TRUCKLOAD

Stowaways have been a problem in shipping circles for centuries and over the years, P&I clubs have adapted their cover to give shipowners adequate insurance against the costs associated with processing (and often repatriating) these individuals.

Because stowaways on ships are generally considered a P&I club risk, they have not been of major concern to the TT Club. However, things are changing with the influx of refugees, economic or otherwise, into the EU. This was highlighted recently with the detention of 104 Romanian immigrants who were discovered in a Kent (UK) freight ro-ro terminal, having apparently all emerged from one trailer.

The UK Government's knee-jerk reaction to this story has been to announce that it intends to levy fines of £2,000 per immigrant on any lorry driver found to have transported stowaways into the country. Apparently these fines are to be levied even on innocent drivers who have alerted the authorities to the presence of stowaways and is a threat which has outraged road hauliers. In January the Government announced that drivers will either have to pay their fine at the roadside or have their trucks impounded.

Clearly, there are a number of drivers who do collude in the smuggling of illegal immigrants but a large number are innocent. The UK Government seems to expect drivers to inspect their trailers and to a layman, this might sound practical. However, those in the industry know differently.

Many trailers are sealed and the drivers are not able to open them. They can of course check that the seals are intact, but again, those in the industry know that seals can be tampered with and if done expertly, this can be hard to detect.

It also appears that a favourite form of entry is through the roof of a tilt trailer. Quite how a driver is expected to check the roof of his trailer is not quite clear. Carry a long ladder? Like checking seals carefully, it's not so easy in practice.

Even if the rear doors of a loaded trailer are opened, it is rarely possible to see whether there may be stowaways hiding amongst the cargo. Admittedly, with a tilt trailer or curtainsider, it becomes easier although opening a tilt is a time-consuming job.

Clearly illegal immigrants are on the increase - in the first ten months of 1998, 2,500 immigrants were detected in the Port of Dover alone - compared to 2,400 in the previous three years.

Neither is it a problem, which is restricted to the UK. The forthcoming issue of the TT Club's House-to-House - which goes into the subject of stowaways in great detail - reports an horrendous case in which 15 illegal immigrants and the truck driver died when the vehicle left the road and rolled down an embankment en route from Barcelona to France. Apart from its human cargo, the truck was loaded with pallets of empty glass bottles. The crash scene does not bear thinking about.

The flood of immigrants is unlikely to abate and there are always going to be corrupt drivers but there is still much the law-abiding terminal, forwarder or haulier can do to reduce the risk. The TT Club is able to advise its members on the security measures that they can implement to reduce this risk.

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4. THE ROBIN TRAVIS SCHOLARSHIP

Robin Travis was the Managing Director of the TT Club management company until his untimely death at the age of 46 in April 1991. He was also a partner in Thomas R Miller, the management company of the TT Club. The Thomas Miller partnership felt that it would be appropriate to establish the Robin Travis Memorial Scholarship in his memory.

Robin had been particularly active in the German market on behalf of the UK P&I Club and the TT Club and had built up strong personal relationships with marine, transport and insurance companies. In recognition of those achievements, the scholarship is directed at young Germans working in these sectors who are given the opportunity of spending time with Millers or Miller-related companies in London, and the UK.

The scholarship is awarded each year to a person under the age of 35 for a period of three months to improve their knowledge of international insurance law and practice. The scholar is chosen by a committee made up of one Miller partner and a number of notable individuals from the German transport and insurance market. The scholarship is worth £4,000 to cover living expenses while in London.

Since the scholarship was introduced, the seven scholars have been drawn from a broad range of sectors including insurance, insurance broking and shipping.

The 1997 scholar was Thomas Doering (above) from Winterthur Insurance Company. Thomas was able to spend time with a number of companies in the Miller group. He was also able to spend time with a

number of other companies, including average adjusters, surveyors, solicitors, freight forwarders, Club correspondents and Lloyd's.

Contributor: Christine Williams, TT Club - London

5. PROPOSED REVISION OF US CARRIAGE OF GOODS BY SEA ACT

The American Maritime Lawyers Association (AMLA) has produced a draft Bill to amend the existing Carriage of Goods by Sea Act (COGSA), which is generally accepted as being in need of revision. There is a strong possibility, according to AMLA, that it will be introduced into the US Senate in January 1999 by Senator Kay Bailey Hutchinson. Some of the proposals it contains are giving considerable concern to freight intermediaries around the world, and FIATA has been asked to intervene in order to try and amend the more serious clauses.

Unlike the existing Act, the new COGSA applies on a multimodal door-to-door basis. The Bill defines three types of "carrier": contracting, performing and ocean. Every operator in the multimodal transport chain is covered by the terms of the Bill. It is a backdoor multimodal convention applicable to all parties trading with the USA.

The most sensitive issue is, perhaps, the proposal to overturn the "Sky Reefer" decision and to give absolute jurisdiction to US Courts. The Supreme Court's "Sky Reefer" decision held that COGSA does not forbid enforcement of a forum selection clause providing for arbitration in a foreign country thus bringing US law on the enforceability of arbitrations clauses into line with the law of most other nations.

The Bill discriminates against road and rail carriers outside the USA who will be liable for any damage, which occurs at any point in the journey. Although American rail or road carriers are exempted from its provisions, operators in Europe carrying out an overland collection or delivery service as part of a through transport, will find that the new COGSA denies them the right to rely on national laws or international conventions, such as CMR or COTIF/CIM. Even AMLA admits the need to amend this section. There is a potential conflict with other international conventions to which the US is a signatory.

The European Commission and the US Department of Transportation have publicly announced their intention to harmonise the liability of intermodal operators in EU/US trade. It seems unfortunate that AMLA is seeking to bring about significant and unilateral amendments to the liability regime and extend extra-territorially US legislation to the same industry sector.

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6. IMPACT OF THE ISM CODE ON THE TRANSPORT INDUSTRY

Ship operators the world over will be well aware that Phase I of the International Safety Management (ISM) Code has been in effect since 1 July 1998. While recognising that these new requirements represent only part of a substantial volume of regulations to which ship operators must adhere, the club has been approached by a number of freight forwarders and NVOCCs seeking advice on the subject. In response to this, the Club has just published one of its Stop Loss information sheets on the subject.

In Phase I the Code impacts on operators of passenger ships, oil and chemical tankers, gas carriers, bulk carriers and cargo high speed craft of at least 500gt, and operators are required to obtain a Document Compliance for the office and Safety of Management Certificates for each ship falling into these categories. The practical impact at this stage on others in the transport chain is dependent upon the nature of their trade. However, transport operator Members of the Club are likely only to be affected by

this first phase where consignments are shipped (including any transshipment or feeder) on either a "bulk carrier" or a "passenger ship".

Under Phase II of the Code, operators of all other types of ship - which includes container ships - have until July 2002 to comply, although a number of operators of such ships are known already to have taken the necessary steps to achieve the requisite certificates.

The Stop Loss sheet outlines the issues to note and practical steps that should be taken. It will be mailed to all freight forwarder and transport operator Members. If you require further assistance or, additional copies, please contact one of the Club's offices.

Contributor: Peregrine Storrs-Fox, TT Club – London

6.YOUR LETTERSBelow are extracts from some of the responses we received from the first edition of TT Talk:

Time for a Re-Think?

"The time for a re-think piece was particularly interesting to me. We regularly see container deck load failures on the North Pacific, although they have fortunately been economically insignificant compared with the four this year.

. if these problems are to be avoided, it appears that the height of deckloads either have to be reduced, or the containers strengthened, or the stability of the vessels moved along the scale from stiff, toward tender, thus slowing the rolls".

Bob Sanders - Wood Tatum Sander & Murphy, United Kingdom

"..... I have been directly involved in 5 major container deck stow collapses in the past decade, and several other smaller incidents in which 10-20 containers have been lost overboard or shifted in bad weather. ...It's an old problem. No re-think is required, just sufficient design calculation, and some rules and education for the shore staff who fill the slots".

Mark Galloway - Al Mushtaraka, Jeddah

General

"Received with interest your newsletter by e.mail. Details at the end of each article whereby additional/follow up information can be obtained would be beneficial, particularly to us here in Vietnam where news items such as those contained in TT Talk are very rarely received".

Captain Richard Skene - Spica Services, Vietnam

"Thanks for the e.mail copy of TT Talk. I found it most informative and it appears that e.mail is certainly the growing method of communication".

John Lister - Halford Youngs, Australia

We enjoyed your newsletter and would like to inform you that we would like to continue to receive this publication

George Baker - California United Terminals, USA