

Sanchi disaster: Marine insurers will count the cost

- 23 Feb 2018 NEWS



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WHILE SANCHI WILL BE A SERIOUS HIT FOR THE MARINE INSURANCE COMMUNITY, IT IS UNLIKELY TO BE AS BAD AS MORE PESSIMISTIC SCENARIOS HAVE SUGGESTED.

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THERE is a certain grim symmetry in the death tolls from the Costa Concordia casualty in 2012 and the loss of *Sanchi* earlier this year. In both cases, 32 human beings lost their lives.

Sadly, as the former was a cruiseship and the latter was a tanker, the story of the sinking of *Sanchi* will not garner anywhere near the same amount of media attention.

But for marine insurers — and the wider shipping industry — this is shaping up to be a landmark casualty; the sector will be grappling with its ramifications for years to come.

It is too early to come to any definitive assessments, not least because investigations have yet to be concluded and liability has not yet been established. Moreover, there are also political complications aplenty.

What can plausibly be said, even now, is that while *Sanchi* will be a serious hit for the marine insurance community, it is unlikely to be as bad as more pessimistic scenarios have suggested.

With luck, the final bill for all liabilities combined can be contained at a low three-digit-million-dollar figure.

First, the bare facts. *Sanchi* was carrying a consignment of condensate from Iran's Kharg Island to Daesan in South Korea when it collided with Chinese bulk carrier *CF Crystal* on January 6, at a position some 300 km off Shanghai.

The ship caught fire and spent more than a week both ablaze and adrift, finally sinking in the Japanese exclusive economic zone on January 14. Three bodies were recovered, but there were no survivors. *CF Crystal* was brought into port at Zhoushan on January 10.

Cover for injury or loss of life is, of course, provided under a ship's protection and indemnity policy. Steamship Mutual — which had not, at the time of writing, responded to an interview request — has confirmed that *Sanchi* was entered on its books.

Compensation in these cases is governed by the amount stipulated in a dead seafarer's employment contract. This varies from contract to contract, depending on the seniority of the crew members, and from nationality to nationality. As ever, third-world lives come cheaper.

For ratings, the sums involved can be quite small, at just tens of thousands of dollars; middle-class Europeans may well have that much by way of household contents insurance. Officers get more. But bizarrely, payments for injury can sometimes exceed payments for death, according to one London lawyer.

In practice, things are not so straightforward. It is often possible for victims' families to bring legal action in other jurisdictions, for instance that of the flag state or of the EEZ country. An element of so-called 'forum shopping' may come into play.

Both Iran and Bangladesh — from where two of the deceased hail — have competent lawyers prepared to act on a no money down, 'no win no fee' basis. Sometimes the International Transport Workers' Federation will provide financial support for litigation. So, in short, the potential costs for loss of life are as yet unquantifiable, and may or may not be minimal.

Given a spill of 136,000 tonnes of condensate, plus up to 2,000 tonnes of bunkers, clean-up costs and pollution compensation could prove the largest element of the claim. This will again be down to P&I policies to meet.

The silver lining is that the spill of condensate, a form of ultra-light crude, will be less consequential than an equivalent spill of heavy crude, given that condensate is prone to rapid evaporation.

On the other hand, the spill has damaged fish spawning grounds, probably to the detriment of future catches. That, in turn, could result in further insurance claims, again potentially of considerable magnitude.

Reuters reported that the resultant slick measured 13 km by 11 km, and some of it may already have reached Japanese and Korean beaches. It may also reach China. We will not know the outcome for some weeks yet. There will be liability here too, with the amount dependent on local regimes, experts said.

Again, firm predictions are futile. But some sources were hopeful that payouts can be contained to tens of millions of dollars, rather than the hundreds of millions of dollars predicted in some media reports.

This is important, as Steamship is an International Group affiliate. The *Sanchi* claim — which occurred in the last policy year — will easily bust the IG's \$10m retention threshold, whatever happens. Costs over that level are met by the group's pooling arrangement, which runs up to \$100m.

After \$100m, the IG reinsurance contract theoretically provides cover up to \$3bn, should that prove to be needed.

Compensation funds

What seems ruled out is resort to the London-based International Oil Pollution Compensation Fund, or its smaller-scale domestic Chinese counterpart, despite mistaken reports to this effect elsewhere.

The IOPC fund is based on an industry levy under the Civil Liability Convention 1972, and would normally kick in for a vessel of *Sanchi*'s size were clean-up costs to exceed \$78m. China has opted out of the IOPC system, but runs a parallel scheme.

However, insurance experts say condensate is not "persistent oil" within the meaning of CLC, and therefore CLC cannot be invoked, whatever happens.

Then there is the value of the cargo itself, estimated at \$60m. Cargo owner Hanwha Total Petrochemical Co has stated its intention to lodge a cargo claim with its own insurers, thought to be a domestic Korean concern.

There may be a degree of owner's liability for cargo, once more a P&I covered risk, if either vessel is judged unseaworthy. That will be for the investigation to establish. But most collisions are the result of negligent navigation, and most contracts of carriage exclude liability in that instance.

According to information in the public domain, *Sanchi*'s hull value is about \$36m. Some 70% of this is covered by 11 insurers, led by Norway's Skuld. Market sources told Lloyd's List that the Swedish Club may also have a line on the ship. Skuld is also *CF Crystal*'s P&I provider. Skuld declined to be interviewed for this piece.

The remaining 30% is covered by Iranian insurers. Iranian media has named two domestic insurance companies, Alborz and Mellat, as covering 20% and 10% respectively.

Again according to Iranian media, that risk has been reinsured by Central Insurance of Iran. The London market believes that Mellat is state-owned or backed, and thus financially strong.

Wreck removal is a covered risk, and will thus fall on Steamship if Japan deems wreck removal necessary. No cost estimates are immediately available. However, the vessel is now on the seabed, and removal may not be an issue.

Finally, there is the Iran factor. UK and European insurers were for several years forbidden to provide insurance to Iranian entities, a measure that hurt the marine insurance sector in particular.

European Union sanctions were lifted in 2015, but some US restrictions remain in place. In consequence, the IG has gone to great lengths to remove US reinsurers from its reinsurance programme.

A possible spanner in the works here is that many western banks maintain a blanket policy of not processing lawful payments involving Iranian concerns, usually for reputational reasons.

There has been speculation that Asian banks, especially Chinese banks, will be more amenable. But even these banks are likely to proceed with caution.

However, other than payments to the dependents of the deceased, most payments flowing from the Sanchi casualty will be made to Chinese, Japanese or Korean interests, or to the salvage sector. That, at least, should be uncomplicated.