

Suez closure likely to lead to 'a spider's web' of claims

Legal action from cargo interests against underwriters expected in multiple jurisdictions, often in response to dispute over size of claims

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De facto closure limited to four days and fewer than 10% of transits in March, Leth Agencies add

Source: Suez Canal Authority



THE KNOCK-ON EFFECTS OF THE VESSEL EVER GIVEN BECOMING GROUNDED IN THE SUEZ CANAL ARE NOW BEING DIGESTED ACROSS THE WORLD.

EXTENSIVE litigation in multiple jurisdictions is likely to result from the unexpected closure of the Suez Canal in the wake of the *Ever Given* grounding, as cargo interests seek to dispute the value of their claims, a US lawyer says.

John Ellison, partner at the Philadelphia office of law firm Reed Smith, pointed out that many companies were impacted by the delay and rerouting of vessels, with up to 400 ships tailed back at one point.

His comments come after Lloyd's List established last week that both Japanese owner Shoen Kisen and Taiwanese charterer Evergreen have applied for in rem writs against the vessel in London, which is likely to be the venue for any dispute arising from the charterparty.

Many of the affected companies will have carried trade disruption policies and their own first party coverage, which pay out on contingent losses and not solely on damage to property.

"That's the next layer after you deal with the in rem proceedings over the direct loss," he said. "The spider web gets bigger and the parties whose goods were on the vessels are also dealing with their own impacts and losses, and that will lead to a second layer of insurance claims."

The jurisdiction will depend on where the goods were headed and where the assureds are incorporated. The tendency will be to litigate over the most expensive claims.

"Where these things get into a dispute often is how you value the loss, especially when you are talking about a lost revenue claim or lost income. There is never a black and white answer to that question. Accountants, just like lawyers, are good at coming up with different ways to argue about things."

Insurance companies may in their turn claim against Evergreen or other entities, he noted.

Meanwhile, logistics marine mutual TT Club has warned of other potential consequences, after many ships opted for passage around South Africa's Cape of Good Hope while the canal was blocked.

Mike Yarwood, the club's managing director for loss prevention, said that beyond the delay to cargo on board the ships affected, there will inevitably be knock-on effects for those involved in discharging the containers at destination, as well as for final-mile delivery carriers.

"While the immediate impact may be a lack of cargo arriving when expected, presenting market supply challenges, it is when the cargo does start to turn up that further potential risks emerge," he added.

The situation will also aggravate the existing imbalance of container equipment, especially on east/west routes, as laden containers are tied up and availability to reposition to shipment areas has diminished.

There is also a heightened risk of theft at ports and freight depots, which will necessitate greater focus on security.

“Whether it simply be at an overspill holding or storage area, or temporary warehousing, wherever and whenever cargo is not moving, it is more likely to be stolen. Due diligence, undertaken to ensure that any third party provider of storage is adequately resourced to meet these demands, is a prudent step to take in these circumstances.”

Driver shortages are already expected to soar through 2021, particularly in Europe, as highlighted by a recent International Road Transport Union [survey](#).

This will exacerbate the difficulties in delivering import cargoes and picking-up consignments for export.

The canal itself appears to have bounced rapidly back from the incident, according to statistics produced by Leth Agencies, a prominent Egyptian ship agency.

De facto total closure was only witnessed on four days, March 24 to March 28. The number of transits in March 2021 was 1,479, a 9.7% decline on March 2020.