

Marine insurers dismayed by \$1bn claim for Suez Canal block and seizure of vessel

Boxship that caused a six-day shutdown of key waterway has been arrested despite go-ahead to sail from class, as Suez Canal Authority seeks resolution of dispute with owner

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‘The ship is worth \$100m or thereabouts. No one in their right mind is going to be paying a claim or providing security for nine times the value of the ship. They’ll just say, take the ship,’ says one London source

Source: Getty Images



SINCE BEING FREED FROM THE SUEZ CANAL, THE EVER GIVEN HAS BEEN DETAINED IN EGYPT, WITH CREW NOT ALLOWED TO LEAVE THE SHIP.

EGYPT has arrested Evergreen-operated boxship *Ever Given*, pending settlement of the Suez Canal Authority's almost \$1bn claim for compensation, after the [grounding](#) of the vessel shut down the key waterway for six days last month.

The development has sparked dismay in the marine insurance community, which regards the Suez Canal Authority's claim as hugely exaggerated, and more in the nature of an opening bid for negotiation purposes rather than a realistic estimate of the losses involved.

It will also heap on the misery for cargo interests, which still have no idea of when consignees can realistically expect delivery.

Evergreen has indicated that it may seek a court order for the *Ever Given* (IMO: 9811000) and its cargo of thousands of boxes to be treated separately, which if successful would at least expedite eventual delivery.

In a statement, technical manager Bernhard Schulte Shipmanagement said that investigations by classification society American Bureau of Shipping, including underwater inspections, were now complete.

ABS has concluded that the Shoeni Kisen-owned 20,124 teu unit is in a condition to sail from its current position in the Great Bitter Lake to Port Said, and thereafter to Rotterdam.

However, *Ever Given* remains at anchor and is unlikely to move without the go-ahead from the Suez Canal Authority. In the meantime, the crew is not being allowed to leave the ship.

Separately, the UK P&I Club – the British marine mutual that wrote third-party liability cover for the vessel — has said in a statement that the owners had received a \$916m compensation demand from the Suez Canal Authority last week.

That figure excludes Smit's claim for professional salvage services, which Shoeni Kisen and its Japanese market hull underwriters expect to receive separately.

The magnitude of the claim was described as "largely unsupported", and to have included a \$300m element for loss of reputation and another \$300m by way of a so-called "salvage bonus".

A "carefully considered and generous" counter-offer, of undisclosed amount, was made on Monday. This was rejected, and *Ever Given* was arrested on Tuesday.

"We are disappointed by the SCA's subsequent decision to arrest the vessel," the club said. "We are also disappointed at comments by the SCA that the ship will be

held in Egypt until compensation is paid, and that her crew will be unable to leave the vessel during this time.”

As a member of the International Group of P&I Clubs, the UK Club is only on the hook for the first layer of \$10m on the P&I element.

The second layer, of up to \$100m, rests with the IG pool scheme, and will be shared out according to a weighted formula with the other dozen affiliates.

The pool has been under strain in recent years following record numbers of major casualties, and is currently running at record levels, which has forced hefty general increases at the last two renewal rounds.

But it is widely accepted that the eventual payout will comfortably exceed \$100m and pass over into the reinsurance market, as what is known as a large loss event.

Marine insurers, which have been braced for a huge demand ever since the casualty occurred, privately insist that the Suez Canal Authority has a reputation for exaggerated insurance claims in the past.

Sources close to the situation did not want to make public comment, for fear of saying anything that could make life harder for the seafarers still on board *Ever Given*.

But a person with involvement in [surrounding litigation](#), who asked not to be named, argued: “It’s a complete joke. The ship is worth \$100m, there or thereabouts.

“No one in their right minds is going to be paying a claim or providing security for nine times the value of the ship. They’ll just say, you take the ship.”

The complicating factor is the crew on board, who are effectively being held hostage along with the vessel.

Shoei Kisen will also bear in mind that it has other vessels than might risk cross-arrest if they wish to transit the canal.

But these will likely be owned by single-ship companies, in line with standard industry practice, and thus not under the same registered ownership as opposed to beneficial ownership.

“In order to lift the arrest order as soon as possible, Evergreen is urging all concerned parties to facilitate a settlement agreement to be reached,” said Evergreen, which operates *Ever Given* on demise charter. It said it is “investigating the scope of such a court order and studying the possibility of the vessel and the cargo on board being treated separately.”

However, there is no doubt that the Egyptian authorities are within their rights to seize *Ever Given*, even though the domestic courts may not be entirely neutral, according to one lawyer.

“They have a claim, they’ve gone to the Egyptian courts and they’ve got an arrest. In footballing terms, it’s like having the referee playing for your side,” he said.

Back-of-an-envelope calculations suggest that the loss of revenue from transit fees would at most have been \$15m per day over six days, or \$90m.

As many of the 400 vessels that were at one stage tailed back would eventually have made the transit anyway, much of that revenue would not actually have been lost.

The cost of the salvage has not been disclosed, but outlay on the use of two dredgers, a dozen tugs, and wages of local workers utilised in salvage efforts are unlikely to amount to more than low double-digit millions.

There was no pollution, and no injuries have been reported. However, the matter has inevitably become politicised, given the Suez Canal’s status as a symbol of nationalism.

Moreover, the Arab country has lost substantial income from tourism on account of the pandemic, and is in urgent need of hard currency.

One senior figure in marine insurance said: “This sounds like way too much. Where is the shortfall? There’s nothing damaged and vessels are still passing the canal.

“That’s the way it goes. You come up with something, then you negotiate and end up with something realistic. That would be my assumption.”

One person ready to speak openly was Harry Theochari, former head of transport at law firm Norton Rose Fulbright, who is now retired and commenting as an observer with extensive past experience in marine insurance litigation.

“One one thing the Egyptians have realised is how fundamentally important the Suez Canal is now to world trade.

“The view that they will take is, you have caused us tremendous damage. This is our canal, and your getting stuck here could mean a loss of confidence.”

In reality, few operators will willingly take on the additional expense and transit time of routing round the Cape of Good Hope.

“This is definitely a negotiating tactic, I don’t think for one moment the lawyers advising the Egyptian government believe they are going to get anywhere near that amount of money. But it’s a good opener, isn’t it?”

The casualty has been declared General Average, which has led to speculation that some cargo interests may refuse to make GA contributions, on the grounds that there has been no damage to cargo beyond perishables.

Rebellion looks unlikely. In those circumstances, cargo would not be released unless security was provided, the lawyer quoted earlier added. The contributions could then be challenged legally in the normal way.

“The crew on board remain in good health and good spirits, fulfilling their duties to the highest of standards,” BSM said in a statement. “BSM is in regular contact with the crew and has offered support to the seafarers’ families. The crew’s continued professionalism and resilience during this period is greatly appreciated.”

BSM and the UK Club were both approached for further comment.

The Suez Canal Authority was approached for comment.