Insurance Marine News

IUMI Blog Day 5, Part Two; the sessions

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Jai Sharma, Partner/Head of Cargo Casualty at legal firm Clyde & Co gave a session on the Ever Given and whether it was time to review exposures.

A brief recap of the incident noted that there were 10,800 containers consisting of 17,500 teu on board when the vessel went hard aground in the Suez Canal on March 23rd this year. The vessel was eventually refloated on March 29th but was then arrested by the Suez Canal Authority while a battle commenced on the level of compensation.

Sharma's presentation raised the interesting matter of how the compensation was distributed between cargo, hull and liability.

While the initial claim was for $916m, of that, $300m was for loss of reputation, which was outside the scope of General Average, as were claims for physical damage and loss of revenue. These would fall to the P&I liability.

The SCA asked for $577m for salvage. Sharma said that this was "settled for much less than the sum demanded", and would be claimed within GA.

For a global settlement to be reached there will be a debate about apportionment between P&I and salvage. Anything claimed in GA must be reasonable. In case of dispute here an English court will resolve the disagreement.

The causation was being investigated by flag state Panama and the SCA. Sharma observed that usually the flag state enquiries take time and cannot be used in court proceedings. However, it remained to be seen if the results of the SCA enquiry can be used in litigation.

Sharma said that the carriers and owners would argue that the grounding was caused by an error of navigation, which was an exclusion under Hague Visby rules. The Cargo interests would need to establish a breach of contract of carriage by owners. That breach will need to be causative of unseaworthiness, although

Sharma noted that it would only need to be a cause. It did not have to be the sole cause.

Coming to the main point of his presentation, Sharma asked whether the Ever Give n had perhaps made it the tight time to consider a rethink on the matter of exposure. It was not as if the Ever Given event was an unknown unknown.

Grounding was a frequently seen peril. The concentration of risk on ever-larger container ships was a known problem. And this type of incident was not exclusive to the Suez Canal.

The reason for Sharma's cogitation was that the value of the ship at the Ever Given was put at between $120 to $150m (although by now that value could be higher). But the cargo and container shells probably had a value in the region of $750m. This meant that cargo will be about 80% of overall value and cargo was therefore exposed to 80% of the GA and salvage claim.

The present estimate of cargo's exposure is 25% of cargo value, coming to more than $150m for the cargo market.

H&M will pay the proportion of salvage legally due from vessel and cargo theoretically due to cargo. While the shipowner (or in effect, its P&I Club) could pay salvage on behalf of the ship as well as the cargo, and then pursue recovery under subrogation, Sharma asked the question. how do owners fund the cargo proportion, which was $450m of the $577m claimed? Do owners have access to that kind of funding, as H&M and P&I insurers might not be willing to help with what is essentially a cargo exposure.

If you ask for contributions on the cargo size, complexities emerge, and, asked Sharma, what happens about the cargo owners who decline to contribute, and where do the uninsured cargo owners appear in the equation?

The hypothetical spin-offs of another incident of this type were fascinating. As Sharma observed, if a dispute on funding was not resolved, a court might order a forced sale, triggering a constructive total loss claim, and the exposure could rise from 25% of GA to 100% of GA.

Sharma concluded that the Ever Given incident was a timely reminder of the concentration of risk This was an unexpectedly high cost of a frequently seen peril. And things could have been far worse. The grounding only lasted six days (although the detention lasted considerably longer) and the Ever Given did not break its back. For future events, the high funding requirement could rest outside the scope of H&M and P&I.

Vaccine Distribution – a global effort and a challenging logistics landscape

Lorant Kovacs (Regional Head, Vertical Market Healthcare, DB Schenker Americas Inc) gave a fascinating talk on the logistical challenges of distributing Covid-19 vaccines. He noted that before the pandemic hit the logistics supply chain had been a “hidden layer” of the global economy. That was very much no longer the case.

One problem was that for Covid vaccines, once the storage temperature is below -20C)e.g. Pfizer and Moderna), then dry ice was required. And Dry ice is considered a hazmat, which adds to the complexity.

Other factors that added excitement to the mix were that:

- There is a lack of seasonality for Covid-19, unlike flu vaccines
- Medical supplies were becoming strategic, with governments and NGOs involved in securing large quantities.
- There is an unpredictable supply and supply capabilities.
- Moderna was a fairly new company in the space and had not previously had experienced the large production and distribution capabilities.
- The fast development of the vaccines meant that there was not time to research stability data, and this typically determines storage and transportation conditions and tolerance.
- There are unique and extremely volatile market conditions.

Kovacs showed a chart which estimated the output capacity of vaccines rising from 8.6bn doses this year to more than 42bn next year. While that is undeniably good news in the global fight against the pandemic, it is also plain that this could pose huge challenges for logistics. Already, with the significant reduction in “belly” capacity (goods carried in the belly of passenger planes, down 54%) there had been a skew towards freight aircraft (up by 30%). But that global vaccine rollout is expected to generate 60k tonnes of air freight, equal to 11,200 B777-300ER flights. “This is why a number of producers have selected near-shoring, producing closer to market”, said Kovacs.

Another factor, particularly for insurers was that many of the vaccines qualified as high-value cargo, and also (an important factor when it comes to Covid-19) could take a considerable time to produce). Kovacs noted therefore that there could be a disconnect between the various “values” placed on a consignment, briefly defined as:

- transportation value,
- commercial value,
- replacement value and
- production value

This could lead to the various parties involved in any loss assigning a different value to the cargo lost.

Kovacs said that cargo insurers needed to manage and mitigate financial risk and exposure for the service provider and other stakeholders involved in global distribution.

In a later Q&A Kovacs said that the vaccine effort was incremental so there had been a shortage of refrigerated containers; the providers had been working on providing additional capacity. “I still foresee a shortage of technologies as the production capacity is going to grow dramatically”, he said.

Finally there was a **Container Collapse Presentation & Panel Discussion.**

Christopher Hearn (Director, Centre for Marine Simulation, Fisheries and Marine Institute of Memorial University of Newfoundland and Labrador) gave a video presentation of a parametric rolling simulation.

Three containers fell from the vessel in this simulation, and later Hearn noted that all three of these were overloaded and had loads that were off centre.

Uwe Scheider (Vice Chair, Loss Prevention Committee, IUMI, GER-Berlin) was asked where he saw the biggest issue facing container losses.

He said that parametric rolling was one of the biggest issues, as was loss of propulsion. One thing Scheider observed was that “we never saw such a mass of container loss before Covid-19. We were seeing 100% full large container ships for the first time. So, the problems followed the full loading. Previously it would be 60% to 80%”.

He also noted that rolling periods reached 45 seconds rather than the normal 12 seconds.

He also observed that sailing away from a storm might not necessarily be the right decision, as the longer distance between the waves could exacerbate the parametric rolling.

David Kirk (Cargo Product Head, Marine, Organization Chubb European Group SE, UK-London) was asked how cargo underwriters could address the increase in exposure.

Kirk said that as a cargo insurance industry there would be a number of cases where the cargo interests do not have any control. So, there is a limit to what the insurer can ask of its cargo clients. They could be reminded to ensure proper loading and weight declaration. He observed that we were now seeing vessels with 24,000 teu. ONE Apus (the biggest container loss last winter) was “only” 14,800 teu, and only 10,000 containers were on Ever Given.

It was observed by all that the perceived need by the captain to uphold trading patterns at a time of high demand for container shipping could only increase the risk.

Is the loss perception a reality or a blip? The shortage of containers, the need for goods to be just in time, the increased bureaucracy involved at ports slowing downloading and unloading, accumulations of stock in ports, were all taking their toll on the entire supply chain management.

All the factors made the loss perception a reality rather than a blip.

Increased loss costs were a reality certainly from a severity per incident point of view. There could be greater capital demands for a short-tail book. “Do we have enough loss reserve for increased severity. Is there adequate reinsurance for single voyages”, asked Kirk. He said that what was needed was data being pulled together from a client and industry perspective and the industry working together to solve the problem. No single part had the power to solve it themselves.