

**LOSS PREVENTION COMMITTEE  
2004 IUMI SINGAPORE  
REPORT**

Synopsis of Replies to this year's Questionnaire

**Questionnaires were sent to 52 member associations with responses received from 23.**

**QUESTION 1**

Every year, innovations in loss prevention techniques, methods and technology become evident in the marine insurance industry (as examples, RFI technology, Port State Control, ISPS Code, etc.). Please identify any recent innovations which have been, or are expected to shortly be, implemented in your market and the loss prevention improvement (or deterioration) achieved or expected as a result. Please do not limit yourself to cargo only, but include hull and any other marine line you wish to identify.

**Denmark**

- The Danish Association referred us to the Consultation Paper issued by the European Commission Directorate General for Energy and Transport on December 23, 2003 entitled “**Freight Transport Security**”.
- Without trying to fully summarize the consultation paper, the following points are to be noted:
  - It is recognized that the annual cost to the European economy of theft and the potential for a terrorist incident affecting key transport infrastructure could well be in the billions of Euros.
  - Similar security standards as those applied to the maritime and air mode should be considered for surface transport, recognizing the difficulties that may be experienced due to the large number of companies involved in that mode.
  - It would be preferable for standards and procedures to transcend national borders and apply internationally so as to ensure equality between all the players and not disadvantage European trade with the rest of the world.

- Cost benefit analysis still needs to be carried out as well as consultation with the industry and other interested parties.
- Information and roadside technology could play a key role in the implementation of security measures with the potential for priority being given to those service providers who can demonstrate security in their supply chain.
- It is suggested that intermodal loading units should require enhanced security seals and locks.
- Audits, response coordination, data collection and management would need to be enhanced and standards universally applied.

## **Finland**

- The Finnish Association in collaboration with the Shipowner's Association have developed a Poster entitled "Instructions for officers of the watch" in three languages which is displayed on the bridge of Finnish owned vessels.
- Insurers are increasingly using Equasis and other public web sites to ensure the quality and safety record of vessels and owners.

## **Germany**

- The German Association feels that Port State Control has shown itself to be of benefit to Insurers' interests.
- ISPS still has to be tested in practice but it is felt that it may not provide any improvement to the current situation as most terminals are already felt to be well operated and secure. There is concern as to who will bear the cost of ISPS.
- GPS technology is increasingly being used on transport of high value shipments. Furthermore, positive results have been achieved with the installation of GPS technology on high value yachts. RFID is in the pilot stage, primarily to optimize electronic interface, with lesser use in loss prevention activities.
- Technological improvements are well received although there is recognition that they must constantly stay ahead of the criminal response.

## **Greece**

- Attention has been given to security of high value loads and Italian shipments, often mandating the use of GPS and demanding that carriers provide proof of financial security or liability insurance.

## **Holland**

- The Dutch Association has instituted or revised a number of clauses which require the use of enhanced anti theft equipment, security measures at storage locations and the installation of GPS on containers used to carry high value loads. The highest category of anti theft measures increases the time that a unit is safe from infraction from 5 minutes to 15 minutes. Lack of an anti theft system increases the policy deductible and this has been successful in greater implementation of anti theft systems and lower claim costs.
- A standard loss prevention survey (SPO) has been developed and is now being used on inland vessels.
- Fire prevention measures are required at shipyards, otherwise deductibles are increased.

## **Italy**

- New technologies and procedures associated with the implementation of the ISPS Code should prove beneficial. These include:
  - 24 hour security, satellite surveillance and the use of electronic badges at container terminals;
  - Vessel inspections and access control at port;
  - Stringent inspections of container seals and corresponding bills of lading at time of arrival at the terminal;
  - Radiographic inspection of containers and analysis of carbon dioxide levels;
  - Pre loading inspections of containers bound for North America.

## **Japan**

- Pilot projects are being undertaken by both the Japanese government and the private sector in the use of IC/RFID Tags and their potential as a tool for identifying time and location of an accident or, in combination with GPS, tracing hijacked containers.

## **Lebanon**

- It is noted that a new modern container terminal in Beirut should have trade benefits for Lebanon especially as regards shipments to Iraq.

## **Morocco**

- Condition and Valuation surveys by professional surveyors are often required for vessels older than 15 years, and older than 10 years for fishing vessels.
- Joint cargo surveys are effected for heavy or oversized loads, bulk, perishable commodities such as fruit and vegetables, and livestock.
- Moroccan insurers insist that vessels be ISM/ISPS compliant, noting problems with some vessels coming from European ports.

## **Portugal**

- There is a greater use of loss prevention techniques and Port State Control is seen as having a positive effect. Not enough experience yet with ISPS.

## **Russia**

- The Russian Transport Authority has recently implemented a set of rules dealing with the safe carriage of cargo for various modes of transport. These rules deal with packing, stuffing, loading and unloading, and stowage operations.

## **Slovenia**

- The Slovenian Association notes the continued use of security measures for trucking in Italy and benefits associated with the use of GPS.

## **South Africa**

- A cargo tracking device was introduced in May using cellular and GPS technology. Its use is limited at present.
- Modified Bathtub rail wagons are being used in the transport of containers to inland destinations designed to make the containers harder to access. Due to the limited number, and documentary problems involved in the use of such wagons, clamps are being installed on container doors to prevent thieves from forcing the doors apart at the top.
- It is noted that there is still insufficient experience as regards ISPS and CSI protocols although there is a concern that delays in moving cargoes increases the risk of theft.
- Satellite tracking of yachts has recently been introduced with no experience developed as yet as to the benefit achieved.

## **Spain**

- A note is made that ISPS, national or international security initiatives are being implemented with results yet to be experienced.
- Insurers are requiring additional different types of surveys to be effected on ships, no longer content to simply accept class or flag state inspections.

## **Sweden**

- The Swedish Maritime Directorate and the Shipowners' Association, with financial support from the Swedish Association of Marine Underwriters, have developed a database named INSJO to capture accidents and occurrences involving Swedish vessels. This independently administered database captures anonymous information provided by the ISM officers of shipowning companies. The

information is shared among the industry in order to assist in identifying trends and developing loss prevention measures.

## **Turkey**

- Some insurers insist on a presurvey report to identify loss control measures required for the larger risks and for high valued goods.

## **United States**

- Much is expected from the use of RFID technology. With greater control over the location of goods, “crimes of opportunity” should diminish. Many are watching the Wal-Mart RFID initiatives and it is expected that this practice will spread to other shippers in a similar manner as has the use of smart road technology for toll collection. FAA has recently certified a dual frequency RFI device that will track both on land and in the air.
- Two GPS systems that are commonly used are Boomerang (GSM system) (<http://www.boomerangtracking.com>) and Boeing Multi Modal. These systems can both locate as well as determine whether a container or truck has been broken into.
- SST initiative requires the use of better electronic seals and better means of tracking containers. This initiative depends on co-operation between parties in the transport chain as well as the installation of readers along the transit route.
- There is still the promise that the CTPAT and CSI initiatives will result in fewer losses but at this time there are insufficient statistics to confirm this.
- A recent study by TAPA which counts 80 high tech manufacturers and other producers of high value goods among its membership, compared theft activity from 1999 to that of 2003 to determine the benefit achieved from the implementation of improved freight security initiatives. Interestingly, although losses were cut dramatically for goods at manufacturer’s docks and controlled warehouses, there was a corresponding increase in losses while goods were in land transit. This is attributed to resistance by carriers in implementing recommended security standards, encouraging thieves to attack goods while in land transit. Only a marginal improvement was achieved

while goods were located at airports, custom or freight forwarders' warehouses.

- ISPS requirements are noted as being difficult to implement on vessels manned by less than six due to lacking the manpower necessary to carry out the requirements. ISPS may need to be changed in this regard. ISM, however, has been modified for use by the tug & barge industry through the implementation of the Responsible Carrier Program. Although voluntary, it is widely adhered to, with the latest statistics indicating a marked reduction in casualties, oil spills and crew injuries. Interestingly, there are a disproportionate number of casualties for those companies that do not adhere to the safety management initiative, which is leading the Coast Guard to change the system from voluntary to mandatory.

## **QUESTION 2**

Focusing on carrier liability:

- a. Please identify any new safety measures, restricting conditions, deductibles, warranties, or other changes being implemented by Carriers or their Insurers, for:
  - i. General Cargo;
  - ii. High Valued Goods;
  - iii. Hazardous Goods;
  - iv. Perishable Goods.
- b. Please describe the relationship between carrier associations and insurers as regards cooperation on loss prevention activities.
- c. Is there a recognized organization in your country which tests and/or certifies mechanical/electronic security measures for trucks and/or warehouses?

### **Austria**

- a. Inspections are carried out on both the trucks and their load at the borders with the former eastern block countries. GSP is mandated for high value goods as well as direct connection between the truck and the truck company. A set route is determined and any variation from this route must be immediately reported to the closest police authorities.

- b. Loss prevention training is provided to freight forwarders, carriers and their staff.
- c. Yes, with two organizations identified.

### **Czech Republic**

- a. No.
- b. There is close co-operation.
- c. Yes, Certification Institute of the Czech Insurance Association.

### **Denmark**

- a. No.
- b. There is a good relationship but no special loss prevention measures have been introduced.
- c. No.

### **Egypt**

- a. No.
- b. There is no carriers' association in Egypt.
- c. Yes, the Traffic Department, Ministry of Interior.

### **Finland**

- a. Due to improving conditions and reduction in losses, full conditions and lower deductibles are being provided on shipments to Russia.
- b. Meetings are held once or twice a year to discuss loss prevention with Shipowners and Freight Forwarders' Associations. Insurance Association is active with police, customs and border authorities on anti theft issues. Training provided to Truckers' Association on load securing. Federation of Finnish Insurance Companies has joined EUROWATCH.
- c. Yes, by the Federation of Finnish Insurance Companies.

### **France**

- a. New clause instituted in 2002 dealing with carriers' liabilities for theft of truck and contents with new definitions incorporated for equipment, goods and secure parking locations. The use of padlocks and mesh-reinforced tarpaulins as loss prevention devices is



suggested. Indemnity is often based on the use of approved security devices. A domestic, toll free number provided by a non-profit organization called ARGOS permits the quick reporting of theft incidents.

- b. There are meetings once or twice a year to discuss loss prevention matters.
- c. Yes, Centre National de Prevention et de Protection for trucks over 3.5 tonnes.

## **Germany**

- a. The German Association is drafting special conditions for high valued goods, including safety measures, deductibles and warranties for carriers and forwarders.
- b. There is regular contact between the Associations on various issues including loss prevention measures, which is of particular concern to the Forwarders due to increasing deductibles.
- c. Yes, a German Insurance Association institute certifies warehouses while the Federal Motor Transport Authority certifies trucks.

## **Greece**

- a. No.
- b. None at this time.
- c. No.

## **Holland**

- a. Clause G23 for general and high valued goods. High valued goods receive special attention with a thorough review of all aspects of the contemplated transit, i.e. choice of carrier and subcontractors, driver hiring practices and training, carrier safety and security policies, previous experience, TAPA certification, transit and storage security review. Implementation of the European Cleaning Document for hazardous goods should result in fewer claims. Legislation expected by January 1, 2005 regarding the tracing of perishable goods within four hours, should also lead to fewer cargo claims.
- b. Top-level consultations are held four times a year. This is leading to the signing of an agreement between all parties, including the government, with the goal of reducing losses and theft.

- c. Yes, TNO Delft tests the equipment while SCM Capelle certifies it.

## **Italy**

- a. Italian and EU organizations carry out continuous updating of acceptable antitheft devices. Discussions are being undertaken regarding the safe carriage of hazardous goods while ANIA is planning to release a handbook on Loss Prevention relating to perishable goods by the end of the year.
- b. Good co-operation with respect to preparing a list of guarded parking areas and stop areas for trucks in Italy. The list is available on [www.ania.it](http://www.ania.it) under “Aeronautiche, Trasporti e Riassicurazione” subsection “Documentazione”.
- c. Yes, IMQ (Istituto Marchio Qualita).

## **Japan**

- a. No.
- b. Nothing to report.
- c. No particular body.

## **Lebanon**

- a. No.
- b. There is co-operation through the International Chamber of Commerce.
- c. No.

## **Morocco**

- a. Concern exists regarding the existence of more than one international regime establishing carrier liability with the suggestion that the adoption of only one regime would be desirable. Concern is expressed that despite Port State Control, the ISM code is not being respected by shipowners and that substandard shipping continues to exist. This is leading to the ongoing practice of using cargo's contribution to general average to pay for maintenance expenses.
- b. Yes, Moroccan insurers through C.A.M.M. provide training on loss prevention, leading to lower loss activity.

- c. Yes, there are many international bodies able to deliver compliance certificates.

## **Portugal**

- a. If underwriting discipline is exercised with the application of adequate deductibles, improved loss experience is the result.
- b. The Portuguese Association continues to work at maintaining good relationships.
- c. Yes, Instituto Portugues de Qualidade (IPQ) and its delegate CERTIF.

## **Russia**

- a. Adequate deductibles are applied while ensuring that goods are always under the control of the driver and the truck kept in a secure location during rest stops.
- b. There are two national carrier associations and cooperation with them has led to the creation of a new monitoring and control system called ZEUS which tracks vehicles and allows for communication with the drivers.
- c. No response.

## **Slovenia**

- a. Improved recoveries from carriers are noted with large shippers using their clout to achieve recoveries higher than are applicable under the CMR Convention. This is leading to some insurers looking for additional premium and restricting coverage further to Article 24 of the Convention while wishing to exclude Article 26. Restrictions are being placed on truck shipment to the former USSR, Serbia and Montenegro, Bosnia and Herzegovina on theft unless vehicle only stops in protected parking areas.
- b. Training seminars and brochures are provided on carrier's liability issues and loss prevention.
- c. Yes.

## **South Africa**

- a. Carriers avoid or deny liability unless forced to. The Environmental Management Act of 2001 requires carriers to have coverage for pollution clean up following a loss. Due to ambiguities in the Act, few insurers are willing to offer this coverage. The Debris Removal Clause was amended so as to limit and clarify coverage.
- b. None.
- c. Yes, by SAIA Approved. An insurance market committee has become a company that certifies all types of risk management tools.

## **Spain**

- a. No.
- b. None.
- c. Yes, by some private entities.

## **Sweden**

- a. No.
- b. There is regular contact but not regarding loss prevention.
- c. No.

## **Turkey**

- a. UND (International Carriers' Association) has implemented a project called "Vehicle Track System" which is GPS based and provides for extensive control of the carrying vehicle. Special loss prevention measures are taken for high value goods which include vehicle inspections, placing wire nets and fire extinguishers on the trailer's underside, warranting no night travel, warranting two drivers used so that vehicle is always attended by at least one, and use of mobile phone and satellite system. Strong competition among carriers has led to improved safety measures, emphasizing driver training, for the carriage of hazardous goods. Spoilage risk is often excluded or if covered on refrigerated conveyances is subject to the 24-hour refrigeration breakdown clause with a minimum of a 1% deductible. A device called "spy" is used to monitor temperature fluctuations.
- b. There is close co-operation on information sharing.

- c. Mandatory vehicle inspections are carried out in accordance with the Road Traffic Act.

## **United States**

- a. Many shippers of high valued goods have established Standards of Care, but rarely conduct audits on the carriers. Shortcomings only come to light after a loss. TAPA has set the baseline for shippers' expectations and has audited and certified some carriers' facilities. Some TAPA members have amended contracts of carriage so as to note the standard, with penalties in the form of higher carrier liability if the standard is not met. There is greater security scrutiny of carriers hauling hazardous goods, and their drivers. There has been significant technological advancement in the monitoring and carriage of perishable goods with better recording devices and more powerful refrigeration units.
- b. There is good co-operation on security issues. Loss prevention activities are most often discussed one on one between insurers, carriers and shippers
- c. Yes, Underwriters' Laboratories primarily, although the SST initiative includes the establishment of industry standards on new technology relative to tracking and smart seals. The American Society of Testing & Materials and others has developed some generic standards regarding security seals. TAPA also has certification protocols, which are extended to include GPS satellite tracking device standards, utilizing third party auditors.

The replies received from each association are much appreciated and we trust that we did justice to their responses. Full copies of the individual associations' responses are available by request to the Chairman at [claudio.verconich@libertyiu.com](mailto:claudio.verconich@libertyiu.com).

## Ports of Refuge Update

Following the CMI Conference held in Vancouver in June, a Report recently prepared by the Chairman, Mr. Stuart Hetherington, has been submitted to the Legal Committee of IMO. As the Loss Prevention Committee has addressed this matter during previous IUMI Conferences, we felt it worthwhile to share with the membership, the current status of this important endeavor.

For those that have kept up to date with this issue, it will be noted that the CMI subcommittee identified 8 topics that needed to be considered:

1. Obligation to offer a place of refuge to a ship in distress;
2. Insurance and Financial Security;
3. Designation of Places of Refuge;
4. Mechanism of Decision Making;
5. Civil Liability;
6. Monetary incentives that can be offered for Ports accepting ships in distress
7. Penal Liability
8. Reception Facilities

Recognizing that the right, according to customary international law, for a vessel in distress to be granted a place of refuge is no longer recognized by many States as an absolute right, an International Convention, or guidelines or amendments to other Conventions, consistent with the current liability regimes, needs to be prepared in order to address the deficiencies in the present system. A new or amended regime would need to address:

- a. The rights and obligations of States, balancing the principle of absolute right to access against a State's sovereignty and right to protect the environment;
- b. Civil and criminal liability/immunity of States and others;
- c. Compulsory insurance, direct action, financial compensation and security;
- d. The impartiality and objectivity of decision makers;
- e. Application of consistent international approaches in relation to the predesignation and publicity of identified places of refuge;

- f. The availability of funds to meet gaps in present liability regimes.

The fear is that without an appropriate instrument, actions by states either unilaterally or on a regional basis, will lead to lack of uniformity in maritime law. It is recognized that the issues involved are addressed in part by a number of international instruments, sometimes contradictorily or inconsistently, leading to confusion. Furthermore, not all countries are signatories to all the conventions that may apply, leading to greater confusion.

The Report notes that currently, there are significant exclusions from liability as well as limitation provisions forming part of a number of applicable Conventions that can work to the detriment of the State or its citizens. It may also be legally arguable that should a State fail to grant access negligently, it may be unable to recover compensation from the shipowner for any ensuing damage, and could also be liable to its own citizens or other States.

Other concerns identified include:

1. States are insisting on financial security from shipowners well in excess of the shipowner's limitation of liability. This may be in breach of the treaty obligations of a coastal State;
2. Decisions by States have been taken without the benefit of objective technical examination of all the facts and circumstances;
3. A divergence of views amongst States as to whether to publicize predetermined places of refuge;
4. Salvors and States may need to be given greater incentives to assist ships in distress with a disaster contingency fund or other international funding mechanism to be considered;
5. Although the State may have a duty to permit access, it should have the right to refuse entry if it can demonstrate that greater harm will occur;
6. Reception facilities for ships in distress would facilitate decision-making and establishment of rights and liabilities, although it is recognized that establishing such facilities may be impractical and financially unviable.

Suggestions for provisions of an International Convention (or Guidelines or amendments to other Conventions) include:

- a. The establishment of a State's rights and obligations;
- b. The granting to a State of immunity from any claims when they provide a place of refuge;
- c. The consequences to a State who unjustifiably fails to grant entry;
- d. The circumstances for the establishment of financial security requirements;
- e. The liability compensation regime which will apply with respect to pollution;
- f. The requirement for objectivity and technical expertise to the decision making process;
- g. The requirement for detailed reasons for refusal to be provided;
- h. The requirement for places of refuge to be predetermined and whether publication of same should be made;
- i. Criminal penalties that should apply, if any;
- j. Whether compulsory insurance should be carried by all vessels;
- k. Whether direct right of action against the insurer should be permitted;
- l. Whether a shipowner seeking refuge should be required to waive limitation of liability;
- m. The establishment of a fund to meet any excess liabilities

In short, the recommendation of CMI is to create a comprehensive solution to the issue by the establishment of an appropriate international instrument.

In Vancouver, opinions were expressed on some of these subjects and of note are the following:

1. IUMI and IAPH are in favour of the development of an International Convention or instrument to the same effect;
2. Concern was expressed by some delegates that such an instrument may not be accepted by States if it impacted on their sovereignty;
3. There was a general view that if there is a risk that States face liabilities, they should be removed so as to encourage States to grant refuge;
4. The preferable approach concerning security is to require all ships to carry compulsory liability insurance with the right of direct action;



5. Great concern was expressed in relation to the treatment of masters and others. Concern was expressed as to the adverse effect it has on the willingness of a ship's master and/or an owner to seek a place of refuge. It may not be only ship's masters who are at risk but also salvors and lawyers;
6. Any move to criminalize polluters is seen as a significant departure from the established philosophy;
7. Although ideal, independent decision making may not suit all cultures;
8. Some countries don't wish to establish predesignated places of refuge and/or publicizing their existence in advance;
9. Interest was expressed in the suggestion that reception facilities such as floating docks be established near busy seaways and funded on a regional basis, although concerns exist regarding the practicality of the suggestion.

A full copy of the Report can be obtained by request to the Chairman at [claudio.verconich@libertyiu.com](mailto:claudio.verconich@libertyiu.com).

**Respectfully submitted on behalf of the Loss Prevention Committee  
Claudio Verconich, Chairman**