

“Pool” system levy a possible solution for misdeclared cargo claims: Cannock



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As we once again watch a drifting, abandoned container vessel with flames billowing from the containers on her deck, the question must be asked: is it not time the marine industry finally does something about this?



To begin to address a problem it is first necessary to isolate the main cause and in this case that is the increasing distance between the forwarders, shippers and vessel owners and the actual cargoes for which they are responsible.

The inexorable rise of the shipping container means it is increasingly common for cargo to be shipped ‘door to door’ in full container loads. An empty container is delivered to a sellers’ premises which they stuff and stow as they see fit, complete what paperwork is required as accurately as they feel is appropriate and call the freight forwarder to haul it away.

The sealed container is then carried by any number of trucks, trains and vessels through any number of terminals and yards until it reaches its final destination, the buyer.

This process is quick, efficient and is the cornerstone of the global supply chain.. So what’s the problem?

As a hull insurer the majority of the assessment and pricing of a hull risk revolves around the vessel owners and operators.

The age, size and type of vessel is important, where she is flagged and classed likewise. But how the vessel is maintained and operated are by far the most important factors. These attributes will be critical in deciding the conditions of cover, the premiums, deductibles or even if the vessel is insurable at all.

It is a common misconception that the loss history of any given fleet guides insurers solely as a Profit & Loss statement, it also indicates how high up an owner's agenda risk management sits. A large fleet with no reported losses is more likely to indicate a lack of incident reporting than a divine ability to avoid the many hazards trading vessels encounter.

Amongst all the details of the owners and operators that insurers look at is what cargo they handle and how it is handled and this is where there is a problem.

A container vessel operator assumes that any given container contains what its corresponding Bill of Lading states and that it has been packed, protected and stowed appropriately.

In reality all they know with absolute certainty is where it fits within a 20,000 teu jigsaw puzzle. This is the insurers' problem, when a major cause of loss is so out of an Assured's control is it insurable at all? A good owner can minimise their exposure to external events, maintaining machinery to avoid breakdowns, routing around extreme weather and avoiding collisions through good seamanship are all examples of this.

However, a mis-declared or dangerously stuffed container is an indiscriminate certainty – Russian roulette for the container ship owner. Looking at the vessels and the operators who have experienced such losses over the past few years they run from the Blue Chip to the not-so Blue Chip and everything in between.

As an insurer there is no way to accurately pick who will and who won't have these losses.

It is interesting that this problem has come to prominence at a time of unprecedented competition in the marine insurance industry. Both hull and cargo markets are incredibly competitive, and this has led to a loosening of underwriting standards despite neither returning a profit to the wider insurance industry for many years.

It is difficult to imagine such inaction by marine insurers over such a recognised problem occurring should the supply of marine insurance be more restricted, and this will be the challenge for the container shipping industry.

For a marine hull insurer, container vessel fleets will be the first under the microscope when shareholders and capital providers finally call time on the loss making.

With this tightening of capacity increasingly looking likely to happen it is important that we start to explore solutions sooner rather than later.

The fundamental problem here is one of liability. In practice the ultimate responsibility for the safe stowage and (honest) declaration of goods increasingly falls on the sellers of the goods to be shipped.

They may not have the required skills to do these jobs competently and they almost certainly do

not have adequate (if any) insurance to cover for their liability for any subsequent losses incurred by third parties.

Whilst relatively new in shipping circles such actors are not new in other lines of insurance and it is in these that the industry may find a solution.

In the UK, Third Party Liability insurance is compulsory for all motorists, however, there is a proportion of motorists who choose not to comply with the law. To ensure the liabilities of these few would be met UK motor insurers established a pool mechanism (the 'Motor Insurers Bureau') to indemnify any third parties that are injured by these uninsured motorists.

In the case of poorly stowed or mis-declared containers, a per container carried levy could be applied by container vessel operators to establish a pool to respond in the event of a fire loss caused by such an incident.

With the cost of these losses being ultimately passed back to the users of the global container network (and the originators of the problem) such a levy would act as a powerful incentive to ensure that best stowage practice was more widely adopted and mis-declaration a less common event.

These risk management improvements would ultimately lead to a reduction in the levy and a more stable, safer global supply chain.

Another advantage of such a scheme would be a single point of claims payment in the event of a loss. Following every incident of this nature many thousands of undamaged containers sit waiting for onward shipment while vast amounts of paperwork are shuffled, and GA securities obtained.

Much containerised cargo is time sensitive to the extent that if it is delayed too long it is of little or no use to its owner. Knowing that all the bills will be paid will speed up this processing immeasurably and ultimately improve the service delivered to the cargo owners.

Establishing such a pool would be no small undertaking (although in the International Group of P&I Clubs there is a body with the required global reach and knowledge of managing mutual pools) but it is something that should be considered.

The current competition in the marine insurance market is masking a real problem in the global supply chain and searching for a solution now should be a priority because that competition is ultimately unsustainable.

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