

Containers Overboard Cause and Effect

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An additional cause - COVID?

Aside from the more typical causes of containers being lost overboard, has COVID had an impact?

Cause

- China goes into lockdown 1st half of 2020
- China emerges from lockdown 2nd half of 2020
- US consumers remain in lockdown - surge in demand
- US retailers low on inventory – surge in demand
- Trade imbalance leads to shortage of containers in China
- Freight rates increase dramatically

An additional cause - COVID?

Aside from the more typical causes of containers being lost overboard, has COVID had an impact?

Effect

- Container ships sailing to capacity?
- Container stack heights up to 10-11 high, 7 tiers above lashing bridges held on with twist locks?
- Increased stack weights with fewer empty containers?
- Carriers charter in tonnage, pressure to meet schedules?
- How do ships deal with adverse weather?
- Ship's design capability stretched?

When things go wrong!



The aftermath. What are the issues?

Evidence Collection

- Access for expert surveyors – physical evidence
- Weather data
- Navigational data
- Vessel data
- Documentary evidence
- Witness evidence



The aftermath. What are the issues?

Who are the stakeholders?

- Cargo owners
- Cargo insurers
- Cargo reinsurers
- Brokers
- Surveyors
- Lawyers
- Shipowners
- Charterers
- Freight forwarders
- P&I insurers
- H&M insurers
- Weather agencies
- Metallurgists
- Port authorities



Who is liable?

Primary carriage obligations of the carrier:

- The exercise due diligence to make the vessel seaworthy at the commencement of the voyage
- To properly and carefully load, handle, stow, carry, keep, care for and discharge the goods carried.
- Hague Rules / Hague-Visby Rules / US COGSA / Others?



Who is liable?

Defences - Are there any?

- Perils of the sea?
- Negligent navigation?
- Act of God?
- Latent defect?



Limitation

- Package / weight
- Vessel tonnage LLMC / value
- Breaking limit?



Carriers / Jurisdiction

- Who is the carrier?
- MLOs / NVOCCs in contract
- Vessel owners in bailment or tort
- Various laws and jurisdictions
- A multitude of legal actions?
- A consensual solution?



