



ABC's for Claims

Raymond Sun 僊

ABC's for Claims

- The American Club is the only IG club that has its Asian representative office in Mainland China – Shanghai
- Opened in November 2007
- Handle claims that occur in Asia



ABC's for Claims (cont.)

- Claims executives are law school graduates or ex mariners; qualified solicitors for HK, England and Wales
- Settlement authority
- Direct instruction surveyors, lawyers or experts
- Also use listed correspondents (China P&I, Huatai or HFW) where necessary
- Assist Club Members and resolve disputes

Claims Handling

- For cases in Asia, please always contact the Shanghai Office.
- We may use other listed correspondents (China P&I, Huatai or HFW) where necessary.

What to do after cargo incident?

- Report to Owners/Managers
- Seek assistance from Club/Correspondents
- Investigate the cause and extent of damage or loss
- Take photos for damaged cargoes
- Hold stevedores liable where applicable
- Documents: CP, B/L, M/R, draft survey reports, claims and correspondences

What to do after a collision?

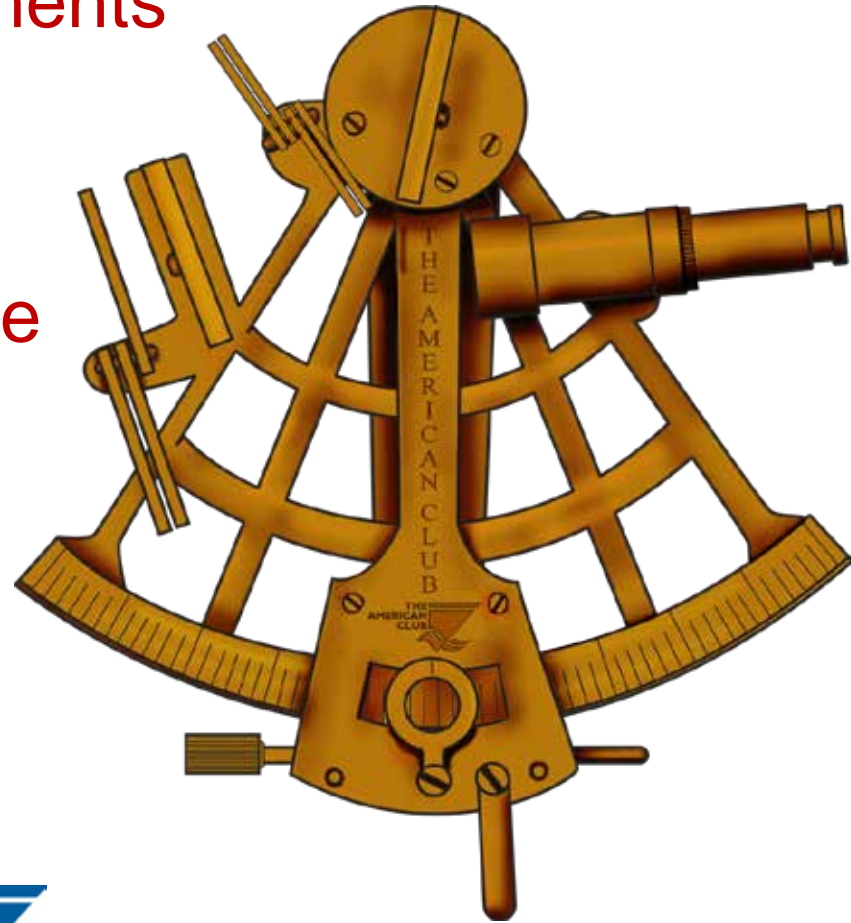
- Report to Owners/Managers
- Inform the Club for attendance where it is P&I relevant (H/U for pure Hull & Machinery matter)
- Stop the working of the VDR immediately and have it saved/downloaded
- Preserve evidence: charts, deck log, engine log, bell book, compass error book, equipment maintenance records, master's night order book, crew list, ship's particulars, radio log, radar, radar log, certificates, course recorder printouts, etc.

What to do after a collision? (cont.)

- Replace the working charts, deck log and bell book
- Statements of witnesses: Master, duty officer/engineer, duty AB
- Record details of incident on loose sheets of paper
“
 ” – privileged
- Check the identity of any visitors
 Owners’/Charterers’/Cargo interests’ surveyor?
 Only allow Owners P&I surveyor
 Only allow Owners P&I lawyer

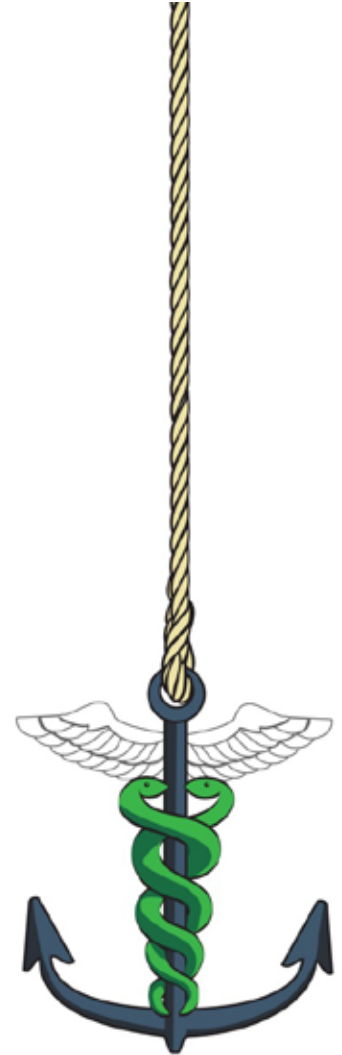
What to do after a collision? (cont.)

- Disclose nothing to opponents
- WP surveyor
- Notes of Protest – limit the information to the bare minimum, kept short



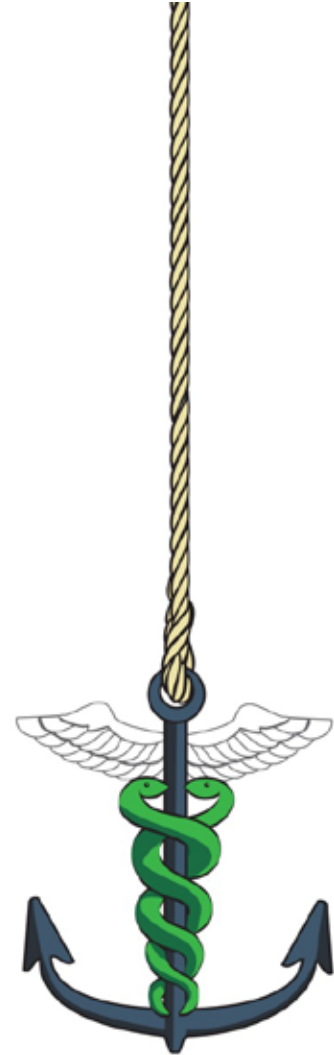
What to do after personal injury?

- Apply medical first aid
- Seek medical radio advice
- Contact Harbor Master/Agent to send the injured/sick crew to hospital
- Get assistance from Club and/or Club Correspondents



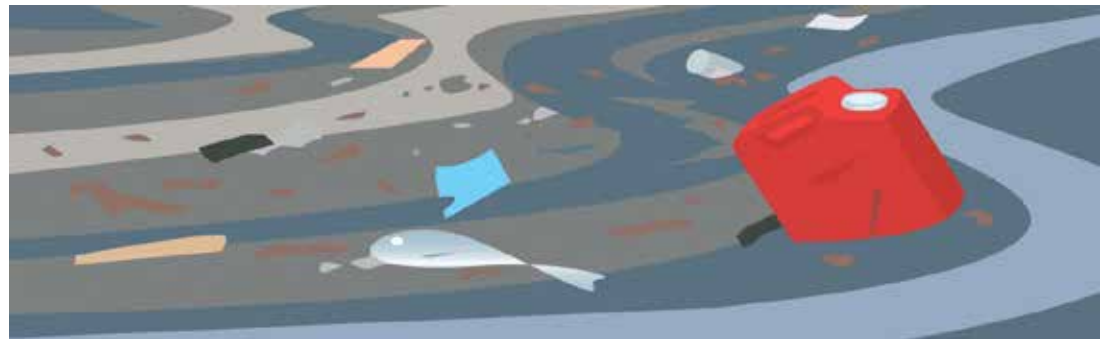
What to do after personal injury? (cont.)

- Statement of Master
- Log entries
- Crew Contract
- Manning Agency Contract
- Pre-Employment Medical Examination report
- Contact details of agents; family, etc.



What to do after pollution?

- Immediately inform the Owners/Managers and Club/Club representative
- Inform Harbor Master
- Clean up
- Take photos
- Estimate quantity
- Investigate the cause



Ship Arrest and Security in China

扣船及担保

- Ship arrest is easy but counter security is required
- Whether arrest wrongful depends on the case, good faith not enough
- Preservation of evidence before litigation/arbitration
- Log books, charts, correspondences, etc. may all be subject to preservation

Ship Arrest and Security in China

扣船及担保 (cont.)

- Bunker arrest is legally available
- Useful against defaulting charterers
- Guarantee has to be issued by local banks and insurers, but Parties may agree to other forms of security including Club LOU
- In most cases, API's LOUs are accepted
- Owners' lawyers are not necessarily required to release the vessel

Ship Arrest and Security

- Premium must be up to date
- Request the Club
- Authorize the Club to negotiate the wording an quantum
- Pay the deductible
- Status of demise charter

Personal Injury

Provision of Supreme People's Court for the Trial of Cases on Compensation for Personal Death and Injury on Sea Involving Foreign Factors, 1991 (“Provision”) revoked on 18 January 2013

1992 年关于审理涉外海上人身伤亡案件损害赔偿的具体规定(试行) 2013 年 1 月 18 日 废止



Personal Injury

1. The relevant provisions in the Chinese Maritime
2. Interpretation of the Supreme People's Court of Some Issues Concerning the Application of Law for the Trial of Cases

Personal Injury (cont.)

(cont.)

Compensation for Personal Injury, 2003
("Interpretation") came into force on 01 May,
2004

片最高人民法院关于审理人身损害赔偿案件适用法律若干问题的解释牙2004癸5 1日起实施

Personal Injury (cont.)

(cont.)

3. Regulation on Work-Related Injury Insurances, 2003 (“Regulation”) came into force on 01 January, 2004

片工伤保险条例牙2004癸1 1] 鑿

4. Contract 嫖媾

5. Tort / 淙墻



Personal Injury (cont.)

- Medical cost relatively low, but escalating
- Compensation escalating
- Rise of the expectation of the injured / the family
- The claimant is becoming more aggressive
- Threats/violence used to prevent the ship/crew of departure: sitting protest in local government's office, MSA's office

- Normally part in cash; the balance by way of security

Collision

Collisions with fishing boats are mostly off Ningbo/Zhou Shan (East China Sea):

traditional fishing industry in Zhou Shan; vessels trade to Ningbo for container / bulk cargo, trading to Zhou Shan for repair / new building

or...

Weihai/Yantai (Yellow Sea): traffic of different directions; coal from north to south

Collision (cont.)

- Apart from legal ship arrest, or detention at the request of MSA for investigation, there happened recently that a few fishing vessels were surrounding the ocean vessel, prohibiting it from sailing
- **Security for collision**
 - part in cash to deceased families
 - part in cash for oil pollution
 - other by way of local bank/insurer security or Club LOU

Collision (cont.)

- **MSA investigation**
- **PSC investigation**

Security for personal injury

Security for pollution

Mutual release of both vessels

Defaulting Charterers

- Try to locate time chartered vessels – ship broker, market
- Arrest of bunkers
- Preservation of property/evidence before litigation
- Lien of cargo onboard or ashore (this may be challenged by holders of B/L)
- Sale of cargo may be wrongful unless the debtor is the owners of the cargo

Defaulting Charterers (cont.)

- Owner's demand letter
- Club's demand letter
- Lawyer's letter
- Appointment of arbitrator
- Locate assets to get security
- Proceedings of the arbitration
- Enforcement

Thank you!

