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## The Wire: Focus on Italy

June 2014

### Welcome to this special edition of The Wire:

ITIC has been providing Professional Indemnity insurance to the Italian market for over 20 years. There are more than fifty Members based in Italy, some of whom have been insured by ITIC since 1992.

This special edition of The Wire introduces Alberto Comitardi to a wider audience, ITIC's Underwriter for Italy, and also includes key claims examples, to help you limit your potential exposure.

The release of this issue coincides with Alberto's upcoming trip to Genova and Roma. Alberto is visiting ITIC Members, insurance brokers and other transport professionals who would be interested in joining ITIC as a new Member in Genova (23 June), Rome (24 June) Naples (25-29 June), where he will also attend the ECASBA seminar (25-26 June) and the Naples Shipping Week closing dinner (27 June).

ITIC visits different regions of Italy throughout the year. If you would like to enquire about future travel plans, or make an appointment to meet with Alberto during his upcoming trip, please e-mail [ITIC.News@thomasmiller.com](mailto:ITIC.News@thomasmiller.com)

We hope that the following selection of articles below will provide both interesting reading and practical loss prevention advice.

### Alberto Comitardi:

The Underwriter for Italy, Slovenia and Croatia, Alberto has been concentrating his efforts on the Italian market for almost four years.

He joined ITIC in November 2010 and now manages worldwide claims by virtue of his background as an international lawyer.

Legally qualified in Italy in 2008 and practicing international and maritime law since 2005, Alberto is a permanent member of ITIC's Legal Team.

In the years 2000 - 2005 he also trained as a shipping agent and super cargo at a UK based shipping line in the ports of Harwich, Bremen, Rotterdam and Antwerp.

Alberto is bilingual Italian / English and with a command of German and French.

### Ship agency claims warnings:

#### Zeroing in on the mistake

A ship agent issued a manifest for seven containers of fruit to be shipped from the Caribbean. The system used did not allow for a zero figure to be put in front of the decimal point, so the temperature read as "-.5C".

The crew misread the manifest and set the temperature of the containers at ‘ -5.0° C’. However, before sailing the Master queried the figure with port agent, as he was concerned that the fruit was being carried at -5.0° C. The agent confirmed that the manifest was correct, misreading his own entry to the manifest.

**The fruit arrived damaged at the discharge port. The shipowner made a claim on the port agent of USD 360,000, which was paid by ITIC.**

### **Not Following Instructions Correctly Results in Cold Spin**

Six containers loaded with washing machines were destined for a Venezuelan port via a transshipment port in the same country. The ship agent at the load port incorrectly stated in the cargo manifest that the transshipment port was the final destination. Normally such errors are easily corrected at minimum cost, but this particular error was to prove disastrous, as the destination port was a free port, whereas the transshipment port was not.

The Venezuelan customs authorities seized the cargo and demanded that customs duties were paid; otherwise the cargo would be assigned to the government. ITIC appointed lawyers to negotiate with the authorities in order to release the cargo and send it to its final, and correct, destination. However, it took several months for the cargo to be released, resulting in substantial costs for storage, container demurrage, customs fines and transportation costs. These costs totalled USD 85,500, which the agent had to pay in order to get the cargo released.

**Ship agents should bear in mind that customs authorities in many countries are a source of revenue to the government and minor errors which can be easily resolved often result in cargo seizure and fines.**

## **Shipbroking claims warning:**

### **Shipbroker gets lost commission**

A shipbroker fixed a ship on time charter from owners to charterers and then a voyage charter from the time charterers to voyage charterers.

The voyage charterers narrowed laycan to 12th July - 22nd July. At the time of fixing, the ship was discharging, with an expected departure on 17th – 18th June and then ballast to make delivery well within the agreed laycan.

The discharge of the ship was unfortunately delayed and on 18th June, while lifting a bulldozer from one of the holds to shore, an accident took place and the bulldozer was dropped on to the tanktop of the hold from 11m height. As a result the ship had to have the fuel oil tank under the hold pumped empty prior to any hot work, which was required. The ship was delayed more than one month and the voyage charterers cancelled the charterparty. The time charterparty was also cancelled.

**As a result, the shipbroker had lost commission on both charters. However, they had purchased full loss of commission insurance and were able to recover the lost commissions under their policy with ITIC.**

## **Marine Surveying claims warning:**

### **Ensure you incorporate your standard terms and conditions**



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Shippers of a cargo of wheat instructed a marine surveyor to survey and certify the holds of a bulk carrier as fit for loading.

The surveyor issued a certificate of fitness to load and 70,000MT of wheat was loaded.

Following the arrival of the ship at the discharge port the local authorities ordered the stevedores to stop discharge operations as they suspected that the cargo was heat damaged. A subsequent survey report, obtained by the shippers, indicated that the cargo was contaminated by delaminating paint, rust, dirt and paint powder from the ship's holds.

The shippers negotiated a reduction in price with the receivers as a result of the deterioration of the cargo, and pursued a claim against the shipowners under the terms of the contract of carriage. That dispute was resolved at a mediation, but the shippers then brought a separate claim against the surveyor. They were seeking to recover alleged losses, including loss of sale proceeds, additional hire paid to the owners and costs, on the basis that the surveyor had negligently certified the vessel as fit for loading in circumstances when it was not.

The claim was for in excess of USD 1m. ITIC appointed lawyers and expert evidence was sought. That evidence suggested that the damage may have been caused by Bobcats used in discharging the cargo. The surveyor also had terms and conditions which – if properly incorporated into their business dealings – would have reduced their liability to a fraction of the shipper's claim. Unfortunately the surveyor had not explicitly made the shipper aware of the terms and conditions, so it was unlikely that a Court would find that these had been incorporated into the business dealing.

It also became apparent that after the surveyor had inspected the vessel, customs inspectors had carried out an inspection and had ordered that the vessel should be cleaned prior to loading. This was both helpful and unhelpful for the surveyor: while it was a strong indication that the surveyor had failed to properly carry out his survey, it also arguably meant that it was not the surveyor's report that the shippers were relying on, but instead custom's approval to load.

A mediation took place but the claim could not be settled. Negotiations continued nevertheless, and the matter was resolved with the surveyor contributing to around 30% of the claim, which was covered by ITIC.

**This claim shows how important it is for terms and conditions to be incorporated into all business dealings. Guidelines as to how to incorporate your terms and conditions can be found at: <http://www.itic-insure.com/rules-publications/article/guidelines-on-incorporating-standard-terms-and-conditions-129819/> (which needs to be cut and pasted in full in your browser).**

## Offshore claims warning:

### Subsea telecommunication cable

A consultant was engaged to notify all interested parties along a route of a new telecommunications cable. The consultant did this in accordance with its principal's instructions. However, whilst laying the cable, the ship dragged its grapnel across the submarine transmission cable, which took power from the wind farm to the shore. A significant sum in damages was sought, including direct damages and consequential losses.

Court proceedings were brought directly against the ship owner. Although, the consultant carried out its role without fault, they were named in the proceedings as a joint defendant. Luckily the consultant had cover in place with ITIC, who paid for the legal defence. ITIC was also on hand to offer expert advice. However, it shows that you do not need to be negligent to have a claim made against you.