

Training can relieve the pressures of change

Jeffrey Blum, a former chairman of the Institute of Chartered Shipbrokers (London branch), looks at some of the changes and challenges facing the industry



Charterers and traders have felt the impact of new banking and trading rules and the continued global economic downturn. There has been little respite as the latest revision of INCOTERMS, the benchmark for standardised international freight delivery terms, came into force on 1st January 2011.

For practitioners in shipping, regular training to understand and comply with regulations is a crucial part of maintaining commercial advantage; a reputation for knowledge and compliance in trading can define a company. For example, demurrage calculations can make or break a company (particularly in the current economic climate) and any topic as negotiable as demurrage will encourage parties to try to sway the interpretation in their favour.

There has been a regular procession of court cases over disputed demurrage fees, including the widely publicised Court of Appeal judgment published last December, *The Eagle Valencia* [2010]. Even with a favourable result through the courts or via arbitration, considerable hours and money can be consumed through legal action.

Good knowledge and understanding of calculating demurrage can make the difference between agreement and dispute. Both for newcomers to the industry and for experienced practitioners, a specialist training course can give those involved clearer understanding and better knowledge, leading to fewer disputes, less time wasted and more money saved.

In addition to the financial necessity of knowing the basics, there is the pressure of keeping knowledge current. The importance of INCOTERMS 2010 to shipping and trading cannot be over-stated. Restructured with intent to simplify regulations often deemed unnecessarily complex, the revised terms still require careful scrutiny and understanding. There are now eleven INCOTERMS instead of thirteen: two new additions - Delivered at Place (DAP) and Delivered at Terminal (DAT) - replace Delivered at Frontier (DAF), Delivered Ex-Ship (DES), Delivered Ex-Quay (DEQ) and Delivered Duty Unpaid (DDU).

The revision of INCOTERMS in many ways reflects the tightening of commercial transactions experienced in 2007 when Uniform Customs and Practice (UCP 600) and International Standard Banking Practice (ISBP 2007) were introduced. Presumably unforeseen by those who formulated UCP 600 and ISBP 2007, these regulations opened up the possibility for unscrupulous charterers to sign their own Bills of Lading, take them to a bank and obtain vast sums of money fraudulently. The concern is that, if Bills of Lading were to become a regular method of fraud against banks, it could lead to significant

preventative action and even tighter regimes impacting on not just the unscrupulous but also those many honest traders for whom Bills of Lading are essential.

Other vital changes include replacing references to "EDI" with references to "Electronic records or procedures" which, in addition, must be used when the parties have expressly agreed or whenever it is customary to do so. "Copies" of documents might mean "Originals" but not always - and sometimes Copies are required instead of Original documents!

Of further relevance, in July 2010 the Uniform Rules for Demand Guarantees (URDG 758) were introduced. Although not as dramatic in its impact as its complementary regulations UCP 600 and ISBP 2007, URDG 758 applies to billions of dollars' worth of outstanding guarantees and requires considerable understanding. Crucially for shipping and trading, also hidden away deep within URDG 758 is a documentary request clause and "Force Majeure" rules, which are designed to protect beneficiaries.

All participants, not just those in the dry bulk market, who are involved in global trading will be affected by banking and INCOTERMS changes. However, negating the risks of higher costs, legal disputes, fines a loss of credibility and the subsequent loss of business is easily achievable with in-depth training.

It is right and beneficial for governing rules to be updated in order to ensure that they are fit for purpose and it is vital that these updates are understood and incorporated into day-to-day trading and shipping activities.

GTSS's two-day Dry Cargo Operations and Chartering course aims to update attendees on these regulatory changes. It will also repair holes in practical knowledge and give those at the sharp-end of commercial operations new or refreshed ideas about ship types, cargo types, ports, Laytime and Demurrage, Voyage Estimating and the roles and responsibilities of all players. ■

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