

KNOWLEDGE IS POWER

ONE COULD BE excused for thinking the start of 2011 provides an opportunity to sit back and reflect upon another exhaustive and challenging year for those working in the shipping industry.

But for charterers and traders who have felt the impact of new banking and trading rules, not to mention the continued global economic downturn in 2010, there is little respite with the latest revision of Incoterms, the benchmark for standardized international freight delivery terms, which came into force on Jan. 1.

A tough business environment doesn't negate the importance of ensuring key personnel are trained properly to apply the new regulations governing international trade. For practitioners in shipping, working within the regulatory framework not only ensures compliance but also can save money. Moreover, understanding and complying with regulations is crucial to maintaining commercial advantage; a reputation for knowledge and compliance in trading can define a company.

were to become a worse and regular type of fraud against banks, it could lead to significant preventive action and even tighter regimes affecting not only the unscrupulous but also the many honest traders for whom bills of lading are essential.

The changes are substantial, making it vital they are incorporated properly into contracts. The bottom line is if they are not expressly referenced, then they will not be incorporated.

Of further relevance to shipping related-trading, July saw the introduction of the Uniform Rules for Demand Guarantees — URDG 758. Although not as dramatic in its impact as UCP 600 and ISBP 2007, the rules apply to billions of dollars' worth of outstanding guarantees and require considerable understanding. Also hidden deep within URDG 758 are a documentary request clause and force majeure rules designed to protect beneficiaries.

The importance of Incoterms 2010 to shipping can't be overstated.

Restructured with a focus on simplifying previous regulations often deemed unnecessarily complex, the revised terms still require scrutiny and understanding. There are now 11 terms instead of 13, with two additions, Delivery at Place and Delivery at Terminal, replacing Delivery at Frontier, Delivery ex-Ship, Delivered ex-Quay and Delivered Duty Unpaid.

There are other crucial Incoterms changes. For example, references to "EDI" have been deleted and replaced by references to "Electronic Records or Procedures," which also 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.

Confused? You needn't be. All participants involved in global trading will be affected by banking and

Incoterms changes. Negating the risks of a loss of credibility, higher costs, legal disputes, fines and the subsequent loss of business is easily achievable with in-depth training.

A further challenge since the global downturn for everyone engaged in international commerce is how to reduce economic risk in demurrage.

Demurrage calculations can make or break a company, especially in an economic climate where margins can dictate a company's future. There has been a procession of court cases over disputed demurrage fees. Even with a favorable result through the courts or in arbitration, the legal action can consume considerable hours and money.

Of course, any topic as open to interpretation as demurrage will encourage parties to try to sway the interpretation in their favor, particularly in tough markets where every commercial advantage counts.

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

It's right and beneficial for the industry to be updated to ensure governing rules are fit for purpose. It's equally critical that new terms and regulations are understood and incorporated effectively into day-to-day trading and shipping activities. **JOC**

Jeffrey Blum is former chairman of the Institute of Chartered Shipbrokers in London, and a visiting professor at the International Maritime Organization's World Maritime University in Sweden and at Shanghai Maritime University. Contact him at info@intlinkint.com.



■ By Jeffrey Blum

To learn more about how Incoterms 2010 will affect your business, tune into the JOC's Feb. 9 Webcast, "Incoterms 2010 Update — New Rules and Changes." For details, see <http://www.joc.com/webcasts>.

The first revision of Incoterms since 2000 in many ways reflects the tightening of commercial transactions seen in banking three years ago when UCP 600 and ISBP 2007 — Uniform Customs and Practice and International Standard Banking Practice, respectively — were introduced.

In developments those who formulated UCP 600 and ISBP 2007 surely did not foresee, these regulations opened up the possibility for unscrupulous charterers to sign their own bills of lading, take them to a bank and fraudulently obtain vast sums of money by cashing a check.

The concern with this practice, of course, is that if bills of lading