

# IUMI 2017 TOKYO



## GOVERNMENT INTERVENTION IMPACTING THE COST OF CLAIMS

Captain Jon Walker, Chairman Asia  
Pacific, London Offshore Consultants.  
(LOC)



# Agenda

- My Background
- The Authorities.
- Where does it go wrong?
- Examples
- Overstepping?
- What can be done?

# MY BACKGROUND



Master Mariner with:

- 18 years sea-going experience,
- 5 years as Master

# MY EXPERIENCE

- Twenty two (22) years investigating marine casualties
- Involved in over 50 Salvage and Wreck Removals
- For both Insurers and Authorities

# MY BACKGROUND

As a result, I have been both :

- in front of an authority's desk



- and behind the same desk.



# MY BACKGROUND

My most “Political Cases”:-

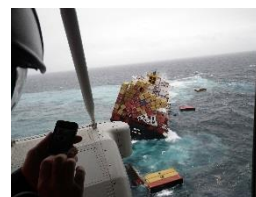
SOLAR 1 – Philippines



HEBEI SPIRIT— Korea



RENA – New Zealand



Numerous - Indonesia



# The Authorities; First things first.



- We recognise the absolute sovereign right of the Authorities.
- We acknowledge they have legal processes that may appear to be restrictive.
- We appreciate the need to co-operate at every level.
  
- However...

# Where does it go wrong?

- Detention and long delays attributed to:
  - Slow investigative processes (Sometimes deliberate).
  - Slow and convoluted legal processes
  - Corruption and extortion
  - Media Sensationalism



# Where does it go wrong?

- Detention and long delays attributed to:
  - Criminalization of Seafarers driven by Emotive issues;
    - Environmental impact,
    - Loss of income for locals,
    - Loss of life



# Where does it go wrong?

Other factors:-

- Visa issues with responders.
- Salvage equipment held in customs.
- Seeking approvals with officials.
- Reef damage, clean up and rehabilitation of areas greater than area affected.
- Uncontrolled interference by locals (World Discoverer)

# Example 1

## HEBEI SPIRIT

- Anchored
- Struck by Samsung Crane barge off Korea
- Massive oil pollution
- Master and Chief Officer detained for up to 18 months



# Example 2

## Norgas Cathinka

- Collision with KMP Bahuga Jaya (sank) 26 Sept 2012, Sundra Strait.
- 8 dead, 208 rescued.
- Vessel (loaded) detained for 6 months. Master and Chief Officer incarcerated an additional 2 months.
- Reported loss of earnings \$400,000 / month.

# Example 2

## Norgas Cathinka (cont.)

- Owner Statement:

- *“This complex and not very transparent process in Indonesia makes it appear more like a “hostage situation.””\**

•\* Skaugen End of Year financial Report 2012.

# Overstepping.

- Some local authorities are unclear as to the jurisdiction of a casualty and therefore assume authority.
- Countries with a proclivity for corruption take every advantage at every level of governmental authority.

# Overstepping.

- Authorities make demands outside their authority.
- “Crusader mentality” of some authorities.

# Overstepping.

- Simply do not understand
  - Lack of experience
  - Lack of knowledge
  - Refusal to listen



# What can be done?

- Sovereign states need to clarify jurisdiction within their governments *before* a casualty occurs.
- Unified IMO approach to develop a Marine Investigation Code as a transparent process.
- ILO/ITF and IMO to develop early release procedures for seafarers under investigation by member countries.

# What can be done?

- As of Oct 2016, only 35 member countries have signed the Nairobi Convention of 2007.
- Collective pressure from the IMO to encourage all member states to sign and implement the provisions within their EEZ.

# What can be done?

- Insurers to talk to Governments, **regularly**
- Governments to instigate system where they have the right people in place, with access to experts.
- Insurers to be proactive and also ensure that those dealing with marine casualties have the requisite knowledge and experience.

# CONCLUSIONS

- Many suffer emotionally and financially from long detention of vessels.
- A high level Code of Investigative Conduct needs to be developed for maritime nations.
- Much more needs to be done to protect seafarers from unfair incarceration.

# CONCLUSIONS

- Must be more contact between insurers and authorities
- Authorities/insurers must use those who know what they are doing.
- Otherwise costs increase dramatically

I thank you for your attention and am now at your disposal for questions

Captain Jon Walker, Chairman Asia Pacific,  
London Offshore Consultants.

