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Navigating in ice conditions

Only a handful of vessels are designed to sail in icy waters. These vessels are “ice classed”, meaning that they are strong and fit to withstand the powers of the ice.

Even for ice classed vessels the risk of damage is high and operating in ice could lead to damage to the vessel. As such, insurance policies (both H&M and P&I) require a vessel to trade within the International Navigating Limits (INL), or when operating outside the INL, require an additional premium. The owners of the vessel will therefore subcontract this requirement to their charterers by limiting the trading area of the vessel in the charter party, because breach of this warranty may prejudice their insurance cover.

Under a time charter, the charterers are free to nominate a port within the trading area of the vessel, which is specified in the charter party. Often, the trading area is limited to trading “between safe ports, safe berths and safe anchorages and places within Institute Warranty Limits/International Navigating Limits”, or something similar. If the charterers nominate a port which is outside the INL, they are in breach of the charter party and can be held liable for all damages as a result.

However, some charter parties contain a clause allowing the charterers to order the vessel to a port or place which is outside the INL against payment of the additional hull and machinery premium incurred. Sometimes there can also be an indemnification or contractual liability whereby the charterers are liable for all damages as a result of nominating a port outside the INL. This is an increased exposure and therefore the charter party must be reviewed carefully before the order is given.

With this circular, MS Amlin promotes further awareness of the dangers and risks associated with navigating in ice and sailing in winter conditions by providing information and practical recommendations.

Technical recommendations

Due to the fact that navigating in ice is an increased risk, we advise our clients to take the following precautionary measures:

- Keep the rudder midships when going astern.
- When in ballast, trim the vessel to the stern in order to have the propeller submerged as much as possible.
- Prepare the engine room and the bridge for manoeuvring well before reaching ice.
- Use the lowest / deepest sea water inlet for the cooling systems, the deeper the inlet in the water the lesser the chances are that it will be blocked by ice and use intercooling if possible.
- Obtain all possible information regarding the ice conditions i.e. ice charts and weather bulletins well before arrival. **Plan your approach carefully.**
- Make sure that the icebreaker knows where you are and establish contact with the icebreaker in advance.
- When following the icebreaker or sailing in a convoy, monitor very carefully the distance between your vessel and the vessel in front and astern of you, and always be prepared for immediate action.
- Double the lookout on the bridge.
- Use manual steering instead of the autopilot.
- Slow down before entering an ice field to avoid damage and enter the ice field at minimum speed.
- Maintain a safe speed when sailing through ice.
- Make sure the cooling water of the emergency generator, auxiliary engines and main engine are filled with anti-freeze.
- When filling or emptying a ballast tank, first make sure the aeration pipe is open and not blocked with ice.
- Drain deck lines/firefighting line. Leave the plugs out of this line and keep some fire hydrants open in order that remaining water is able to expand.
- Pump out water from the ballast tanks for at least 10 or 15 minutes so sounding pipes and aerations pipes are free of water and the water is able to expand.

- Fill ballast tanks by gravity, try to avoid the use of ballast pumps and do not overflow the tanks on deck.
- Minimize the ballast in upper and lower tanks, as they are more exposed to the cold air and the water in them is more vulnerable to freezing.
- Make sure that hatches, cranes and other equipment are ice free before operating.
- Start cranes, winches and other equipment well in advance for pre-heating purposes.
- An important factor is that manoeuvring takes a lot more time than usual.

The above are basic guidelines only. Every situation is different and might require additional measures.

Legal considerations

Most charter parties have specific clauses limiting the trading area to the INL. Under English law there is freedom of contract, meaning that the parties can agree on terms they deem appropriate. Thus, they can also agree that there is no INL limitation or that the vessel can trade outside the INL whereby the charterers indemnify the owners for all liabilities which arise as a result.

In general, the following contractual issues should be taken into account (also back-to-back in sub-charters if any):

1. is there liberty for the ship to trade outside INL;
2. which party pays for the additional insurance;
3. whether the vessel remains on hire if deviation is necessary;
4. who is liable for damages caused by ice;
5. who pays for any delay arising from damages or time spent on repairing damages caused by ice.

From charterers' perspective, charterers should also ideally obtain a written confirmation from the owners that they accept a nomination of a port outside the INL, for example in the fixture note or in a separate email.

We strongly advise **not** to provide an LOI or accept clauses with a contractual liability.

Recommendations for charterers

To begin with, we would like to emphasise that all our Charterers' Liability policies contain a special clause making the cover subject to the vessel trading within the International Navigation Conditions (INL - 01/11/2003). This means that the risks arising from trading outside these limits are not covered under the Charterers' Liability policy. Assureds are, therefore, strongly recommended to make sure that their charter parties are within such limits and in case of a voyage or employment taking place outside these limits, the risks for same should be clearly shifted towards the owners, making sure that the owners and their H&M underwriters are in agreement to bear those risks associated with the vessel trading outside the INL. In many cases, this is done by the owners giving their approval for the vessel to make a call outside the INL against the charterers paying the additional insurance premium required for such a call.

Secondly, depending on the season and location, ice could be present even within the INL. Therefore, before fixing carefully consider if the vessel could happen to be sailing in such conditions. If there is such possibility, make sure that the required class, conditions and requirements are met. A general piece of advice is to avoid going to such areas if you are not properly equipped with the right vessel, crew and sufficient experience in such trading.

Thirdly, it is very important that the charterers maintain a back-to-back position in their charter party with the owners, on the one hand, and any charter party which they conclude with sub-charterers, on the other hand, with respect to all aspects of trading outside the INL, or any trading within the INL but to a port which may possibly be ice-bound. By doing so, one avoids situations where the owners have a discretion under the head charter party to refuse to call an ice-bound port whereas the charterers do not have this discretion in their sub-charter party with the sub-charterers. This could lead to very costly disputes with potentially the owners being entitled to await the port becoming ice-free with their vessel on-hire, whilst the charterers may end up with no hire, demurrage or detention payable to them under the sub-charter party.

Sample clauses for charterers

Keep in mind at all time that navigating in ice and icy conditions is quite dangerous. However, should trading in such conditions be necessary and allowable considering all relevant factors and applicable requirements, there are a few charter party clauses that may be useful in practice.

The following clauses are for guidance purposes only.

LIBERTY CLAUSE

- *“International Navigating Limits Clause – notwithstanding anything else to the contrary in this charter party, charterers have the right to break International Navigating Limits”.*

And delete all clauses stating:

- *“Vessel not to trade in area(s), berth(s), port(s) having ice or ice like conditions”;*
- *“Vessel not to force ice nor to follow icebreakers”.*

PAYMENT OF PREMIUM

- *“Vessel allowed to breach INL/IWL, additional premium for account of charterers”;*
- *“Extra insurance premium for breaking INL/IWL to be arranged and paid for by Owners, which will be reimbursed by charterers against actual invoices before the Vessel’s redelivery.”*

CLAUSES TO AVOID

If you are chartering a vessel, we strongly advise **not** to accept clauses with a contractual liability whereby all risk and consequences are placed on the charterers only. For example, avoid clauses which state:

- *“Charterers have the right to break International Navigating Limits, but always for risk and responsibility of the charterers”;*
- *“Cost of repairing ice damages to the Vessel, if any, and off hire time for repairing ice damages are to be for the charterers’ account; repainting hull coatings breakdown/removal due to contact with ice to be for account of charterers”;*
- *Charterers are free to nominate a port outside INL/IWL against a letter of indemnity (LOI) provided by the Owners.*

BIMCO has also created “ice clauses” for voyage and time charter parties, which are owners-friendly. The latter clause, for example, provides that the owners will be paid hire, even if the port cannot be reached. In some of the standard charter parties this clause is automatically incorporated.

However, time charterers should be careful accepting the BIMCO clause, due to their continuous obligation to pay hire. If they however do accept the clause in their time charter party, they also need to make sure the clause is contracted back-to-back in their sub-charters in order to obtain payment from their sub-charterers.

BIMCO ICE CLAUSE FOR TIME CHARTER PARTIES 2005

- (a) The Vessel shall not be obliged to force ice but, subject to the Owners’ prior approval having due regard to its size, construction and class, may follow ice-breakers.
- (b) The Vessel shall not be required to enter or remain in any icebound port or area, nor any port or area where lights, lightships, markers or buoys have been or are about to be withdrawn by reason of ice, nor where on account of ice there is, in the Master’s sole discretion, a risk that, in the ordinary course of events, the Vessel will not be able safely to enter and remain at the port or area or to depart after completion of loading or discharging. If, on account of ice, the Master in his sole discretion considers it unsafe to proceed to, enter or remain at the place of loading or discharging for fear of the Vessel being frozen in and/or damaged, he shall be at liberty to sail to the nearest ice-free and safe place and there await the Charterers’ instructions.
- (c) Any delay or deviation caused by or resulting from ice shall be for the Charterers’ account and the Vessel shall remain on-hire.
- (d) Any additional premiums and/or calls required by the Vessel’s underwriters due to the Vessel entering or remaining in any icebound port or area, shall be for the Charterers’ account.

Useful resources

You can access live feedback about the ice navigation status in different regions in the Northern hemisphere and take a look at the latest ice reports:

- <http://baltice.org/weather/>
- <https://www.smhi.se/en/services/professional-services/scandinavian-waters/swedish-ice-service-1.8715> (look for 'Ice Report')
- http://www.nsra.ru/en/navigatsionnaya_i_gidrometinformatsiya/meteoinfo.html
- <https://www.canada.ca/en/environment-climate-change/services/ice-forecasts-observations/latest-conditions.html>

You can also consult the following resources about the International Navigating Limits (prior to November 2003, known as Institute Warranty Limits):

- https://www.bimco.org/ships-ports-and-voyage-planning/insurance/international_navigating_limits
- <https://www.bimco.org/Ships-ports-and-voyage-planning/Insurance/Warranty-limits>
- https://www.lmalloyds.com/lma/underwriting/marine/JHC_Nav_Limits/Navigating_Limits_Sub-Committee.aspx

This information is meant for guidance only. Should you require more information or assistance, please feel free to contact our Loss Prevention Services: LPS@msamlin.com



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