

P & I REVIEW –RUSSIA FAR EAST

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1. LEGAL REVIEW

1.1 PERSONAL CANCER RELATED DISABILITY COMPENSATION.

We have had number of cases when seamen were signed off because of cancer.

Very frequently we were requested to advice on two general questions with regard to such cases:

- Can we classify the cancer as a chronic disease (some collective agreements exclude chronic diseases from list of compensation)?
- Can medics find out the period of the beginning of the disease in order to exclude a pre-employment nature of seafarer's disease?

After consultations with professionals (both medics and lawyers) we can summarize the general approach used in dealing such cases as follows:

Medical view: Any disease (cancer included) has two stages. First stage is when a disease is completely cured and never returns. In this case it is not chronic.

If a disease remains permanent then it BECOMES to be regarded as a chronic one after some time.

Legal view: Under Russian law one can regard a disease as chronic only when there are duly registered medical records related to the disease.

In one case only we succeeded to prove to the trade union representatives and the seaman's lawyer the pre-employment nature of the seafarer's cancer. It became possible due to fact that cancer was revealed several weeks after boarding the vessel.

As a result, we convinced seafarer's widow to settle the claim on the minimal amount in exchange of duly signed Statement of Receipt & Release.

1.2 CHARTER DISPUTES

Charter disputes may be quite challenging and complicated. Recently we were requested to assist solving freight non-payment dispute.

Vessel with full load of medical sailed from port of Cuxheavn, China, to Nakhodka.

Due to high freight amount ship-owner signed an agreement where the voyage charterer freight should have been paid during the voyage, prior to arrival at the port of destination.

The voyage charterer failed to do it and even ignored communication with the owners.

When the vessel approached the port of destination it became clear that the voyage charterer was not going to pay the freight and we were requested by the Club to advice whether the vessel can discharge the cargo and exercise lien there.

Following to our investigation we noted that the voyage charterer was a third party that had no prior relations neither to the shipper or the consignee. Thus, in this particular situation the Consignee, being the owner of the cargo, has not legal rivalry against the Carrier and therefore no lien could be executed to the cargo.

We advised to the Club/Owner to return the vessel back to port of loading and to store the cargo at the Owners premises till they get the freight amount and extra expenses incurred.

The Owners followed our advice and now are in a process of litigation. According to information available the voyage charterer proved to be an unreliable party who deliberately used such schemes in different similar cases.

We recommend to the Owners pay attention to the situation when a voyage charterer is a third party with no relation to the consignee or the shipper/seller. In that case it is highly advisable to have the freight pre-paid.

1.3 “EDUCATING” INEXPERIENCED PARTIES

Due to our domestic contacts we are often requested to intervene in “non formal” negotiations between disputing parties.

Mv “Xin Yang 688” was loaded with building materials in the port of Penglai, China. On the way to the port of destination the vessel encountered very bad weather. Upon arrival to the port of discharge Kholmok it was discovered that most part of the cargo was wetted in this voyage. In spite of the cargo being insured with cargo insurance company, the Consignee claimed damages directly against the Carrier.

During clarifications with the Consignee’s representatives, we learned that claims were presented against all involved parties. We explained to the consignee that claiming against cargo insurers would bring faster and less expensive results. Consignee accepted our advice and withdrew the direct claim against the Owners.

1.4 CONTAINERS STORAGE AND DEMURRAGE DISPUTES

Recently we are assisting containers owners to clear their containers from consignees who abandon the loaded containers for commercial reasons.

Loaded containers are being kept at the Container Terminal although the Consignees paid already the freight and customs duties but fail to pay the container’s storage and demurrage expenses. From legal point of view the cargo in these containers may be released at any time by the consignee against producing a customs declaration, Bill of lading and "free to exit" customs letter which are the documents required by the Maritime Code and customs law in Russia. In some instances the consignee chose to abandon the already cleared cargo in order to avoid paying of the container’s storage and demurrage expenses. Since the consignee is in possession of the necessary documents, no other party is in position to clear the container including the owner of the container, the vessel’s agent and the forwarder.

Now the representative of the containers’ owner Belsu Logistics (in cooperation with us) is trying through arbitration to place a lien on the Consignee's cargo in the containers. If successful Belsu will be able to sell the goods in the containers in order to recover for the storage and demurrage expenses and set up the first precedent of this nature in Russia.

2. RUSSIAN FAR EAST SEAPORTS DEVELOPMENT AND THE INTERNATIONAL TRANSPORT CORRIDORS

The perspective cargo volume of the Russian Far East basin is estimated at 400 million tons including 160 million tons of bulk liquids and 240 million tons of dry cargo.

Generally speaking the Far East ports cargo are mainly engaged in handling the energy resources (i.e. oil and its products, liquid natural and hydrocarbon gases, coal, coke), petrochemicals, metallurgical and mining products, food (i.e. grains, soybeans) and the forest resources of Siberia and the Far East, as well as the containers of the East-West transport corridor.

According to the federal document (draft) "Strategy of Russian Ports Infrastructure Development till 2030", very ambitious development program is planned.



2.1 RUSSIAN FAR EASTERN SEAPORTS

At present 22 commercial and 10 fishing ports are located on the coastline of the Russian Far East. The largest ports with high potential turnover are: Port of Vostochny, Port of Nakhodka, Vladivostok, Port of Posiet and Plastun in Primorsky Krai; Ports of Vanino, Sovetskaya Gavan and De Castries in Khabarovsk Krai; Ports of Kholmok, Korsakov, Ulegorsk on the Sakhalin Island; Port of Magadan located on the shores of the Sea of Okhotsk and Port of Petropavlovsk-Kamchatsky in Kamchatka.

The combined turnover of these ports does not exceed 50 million tons at present. However, only 0.6% of transit containers transported annually in the Asia-Pacific area are handled by Russian ports.

PROBLEMS AND CHALLENGES

Currently, the main problems for the major ports of the Russian Far East are the insufficient cargo transit capacity, lack of port communications and service lines, excessive equipment wear as well as the insufficient handling capacity of the railway network in the whole. The last factor is crucial for further development of the port infrastructure in general and for the entire transportation system in the Far East.

2.2 ROAD MAP FOR DEVELOPMENT

What is being done in this area now?

Firstly, the Ministry of Transport of the Russian Federation together with the Primorye region administration plan the comprehensive development of the Vostochny-Nakhodka transport hub along with port special economic zone (PSEZ) based in Vostochny Port.

Secondly, development of the port in Troitsa (Trinity) Bay near the Chinese border and its effective infrastructure can be the pilot project of the transit port hub, aimed at transport development and specialist training, as well as services techniques improvement and further development of international cooperation with China, Republic of Korea and DPRK.

According to calculations for the worst scenario the container traffic capacity in the region would be 2-3 million TEU, in optimistic one – 12-13 million TEU. With turnover of 10 million TEU the income of the transport system in the region could reach 15 billion U.S. dollars

At present only Vostochny port is capable to become major freight (logistics) hub, however there is also a problem there. Passing through the territory of Primorye the international transport corridors “Primorye-1” (Suifenhe – Grodekovo – port of Vladivostok – ports of southern China) and “Primorye-2” (Hunchun – Kraskino – Zarubino –Asia-Pacific ports) are still more said than done.

This is due to slow movement of goods, customs “hurdles”, lack of sufficient land transportation and required infrastructure.

It is believed that the ports of Khabarovsk Krai, i.e. Vanino and Sovetskaya Gavan have the higher development prospects.

Compared to other Far Eastern ports both Vanino and Sovetskaya Gavan have the benefits of most convenient and deepest basins as well as possibility to improve available port facilities and approaches to it. Because of their unique location, meteorological and hydrological conditions these ports are “safe heavens” for vessels in almost all wind directions especially in stormy autumn season.

The analysis of both the situation and the cargo base expansion in the Far East shows that by 2020 Vanino-Sovgavansky hub (VSGH), which includes the ports of Vanino and Sovetskaya Gavan, will be able to process about 50 million tons of cargo. The most important are the prospects of production and export of coal, ores and ore concentrates, timber, especially from areas adjacent to the Baikal-Amur Railway.

Bottle necks of Baikal-Amur Railway are of great concern.

From 2000 to 2012 the freight traffic volume through the Baikal-Amur Railway was increased by 50%, and experts predicted that by 2015 it would additionally increase by 2-2.5 times.

In consequence the railway’s capabilities to handle such a flow of goods may become inadequate.

Further development of the port of Vladivostok is unlikely because of the limited capacity of the Trans-Siberian Railway.

2.3 PROJECTS AND INVESTMENTS

To solve the problem of insufficient capacity of the railway the JSC “OAO Russian Railways” is implementing an investment project of comprehensive reconstruction of the railroad between Komsomolsk-on-Amur and Sovetskaya Gavan cities. The project includes reconstruction of Oune – Vysokogornaya part and construction of a new Kuznetsovsky railway tunnel planned to be commissioned later in 2013.

The total project’s cost is about 23.77 billion rubles which includes 17.55 billion rubles of the Investment Fund of the Russian Federation and 6.2 billion rubles of the JSC “OAO Russian Railways”. Reconstruction of the Kuznetsovsky pass will allow tripling the capacity of the railway.

Recently the Russia’s Far East Development Minister has proposed building a massive bridge from the mainland to the island of Sakhalin in order to turn the island into a “third door to the Pacific.”

3. OIL AND GAS DEVELOPMENTS IN RUSSIAN FAR EAST AREA

“ESPO 1” – Dec 2009

- 2964 km Taishet to Skovordino
- 600 kpd through-put
- Railway rehandling to Kozmino
- Development of Kozmino port up to 150kt dwt vessels

“ESPO 2” – 2011-2013

- 2100 km Skovordino to Kozmino
- 1000~1600 kpd through-put
- 600kb supply to refineries along P/L
- 600~700 kbd export from Kozmino
- Further development of Kozmino port



“Chinese Spur” – Started since Jan 2011

- 70 km spur Skovordino to Chinese Border and Daqing
- 300 kpd through-put
- Further pipelines to feed Heilongjiang Province



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