



## WORLD WIDE CLAIMS SERVICES

### UAE UPDATES

DP World is planning to build a super yacht marina in Sete, France. It is intended to provide 12 berths with full facilities for large vessels of upto 100 meters. This is another important development in DP World's continuous expansion programme.

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With the arrival of the cruise season, Dubai and Abu Dhabi are gearing up to welcome tourists on Cruise Liners from all over the world. The luxury Cruise Liner, "Seaborne Encore" was the first to arrive in Abu Dhabi. Authorities are expecting an increase in the number of passengers in this season.

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It is a matter of pride that Drydocks World, Dubai has won the "Rig Repair Yard of the Year Award" at the third Offshore Achievement Award 2017.

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Fujairah port has signed a memorandum of understanding with Amsterdam Port Authority for strategic cooperation between the two Ports. This will give a major boost to the operations of Fujairah port.

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### CYBER ATTACKS ON SHIPS

The recent cyber attack against Maersk Line has exposed the vulnerability of ships to this new danger. It is reported that the incident cost the Shipping Line more than \$ 200 million. Malware and phishing are said to be the most common form of cyber attacks. Ship owners have realized the need to be more alert and also to upgrade their security infrastructure. Many Shipping Lines are taking steps to implement security guidelines, making the crew aware of the gravity of the danger and ensuring that they strictly comply with the guidelines.

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*"Stay committed to your decisions, but stay flexible in your approach"*



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## **WORLD WIDE CLAIMS SERVICES**

### **FREIGHT DISPUTE - CANCELLATION OF CHARTER**

A Forwarding Co in Dubai, on behalf of their customer, undertook the transportation of a consignment of 'Carbon steel Pressure vessels' from Mumbai to Abu Dhabi. They contacted a Chartering Broker in Mumbai who arranged the shipment on a vessel for a freight of USD 95,000 on Liner terms. Accordingly, a Booking Note was signed. The Freight was paid to the Broker, the vessel loaded the cargo and departed from Nhava Sheva Port. However, on instruction from their Owners, the vessel anchored soon after leaving the Port. They alleged that the Charterer has not paid the freight. When the Forwarder enquired with the Broker, they produced evidence to show that they had remitted the freight to the Charterer in Romania. Apparently, the Charterer did not in turn pay the Ship Owner.

In the meantime, the vessel was arrested pursuant to an Order from the Madras High Court in respect of a claim filed by another Forwarding company against the ship. The issue related to a dispute arising from an earlier shipment. The vessel was brought back into the Port by the Coast Guard. The subject cargo thus remained on the vessel stranded in Nhava Sheva Port. At this stage, the Charterer terminated the Charter alleging the vessel's inability to perform the voyage due to the arrest.

The consignee in Abu Dhabi was pressing for delivery of the cargo which was urgently required for their project. The Forwarder filed an application in the Madras Court for permission to discharge the cargo from the vessel so that it could be shipped on another vessel to Abu Dhabi. The request was granted by the court on condition that the Forwarder surrender the original bill of lading. However, the Ship owner threatened the Forwarder that if they were forced to discharge, they will arrest the cargo on account of dues payable to them by the Charterer.

In the meantime, the claim for which the ship was arrested was settled and the ship was released from arrest. The Forwarder therefore decided not to discharge the cargo and continue the shipment on the same vessel. However, the ship owner refused to sail alleging that they have still not received the freight. They demanded that the Forwarder sign another contract with them and pay freight of USD 118,000 for performing the voyage. Facing intense pressure from their customer for delivering of the cargo, the Forward-



*“Always look how far you have come rather than how far you have to go.”*



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er reluctantly accepted the Ship Owner's offer. The cargo was finally delivered to the customer in Abu Dhabi.

The Forwarder sent a notice to the Broker demanding return of the freight of USD 95,000 paid to them. The Broker rejected the demand affirming that they have indeed paid the freight to the Charterer.

The Forwarder referred the issue to their Liability Insurers in UK who appointed **WWCS** to assist. After studying the matter, we decided that it will be difficult to hold the Broker responsible. As per the Booking Note signed by them, the freight is "deemed earned and not returnable whether ship and / or cargo lost or not lost". In the circumstance, there was no case for demanding return of freight. Moreover, as per the Booking Note, dispute if any is subject to Arbitration in London, which would be costly.

It was therefore decided to claim against Ship owner based in Russia on grounds of breach of contract for their failure to deliver the cargo under the original bill of lading. It was argued that the Ship owner forced the Forwarder to surrender the bill of lading, sign another contract and pay additional freight. The Forwarder had to submit to such unreasonable demands under duress. However, the Ship owner's lawyers maintained that the ship was unable to perform the original voyage because the freight was not received. Even though they were threatened with arrest of their vessel, they did not settle the claim. They suggested that the issue should be taken up with the Charterers. However, the Charterer in Romania was not contactable and had no assets either. In the circumstances, it was finally decided to close the file.

*The outcome would have been different had the Forwarder had taken steps to arrest the vessel in Mumbai when the ship owner refused to sail with the cargo. Since they were holding the bill of lading they had a right to demand delivery or return of freight. Unfortunately, the Forwarder was under pressure from their customer to deliver the cargo without delay. Therefore, they were forced to negotiate a separate contract with the ship owner.*

*They notified their Insurers much later after delivery of the cargo. If they had consulted Insurers at the beginning of the dispute, they could have received prompt advices / assistance to protect their / customer's interests. It is also pertinent to note that the Forwarder had no capacity to claim / sue in their name as they were acting on behalf of the cargo owner who was the consignee on the bill of lading.*



*"When you Accept instead of Expect, you will have fewer disappointments ."*



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## WORLD WIDE CLAIMS SERVICES

### DID YOU KNOW .....

- Hot water will turn into ice faster than cold water !*
- Mona Lisa has no eyebrows !*
- Strongest muscle in the body is the tongue !*
- Ants never sleep !*
- Coca cola was originally green !*
- Camels have three eyelids to protect them from blowing desert sand !*
- The names of all continents start and end with the same letter !*



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