



## **Response to Danish Maritime Authority and Environment Ministry**

Please find below my take on the response from the Danish Maritime Authority to our two Resolutions.

*To establish a convention on the liability to pay compensation and damages in connection with damages caused by the carriage of non-noxious materials.*

They are right to say that the LLMC 96 regulations apply and that the EU Directive will make it compulsory to have issuance but the convention is designed to limit the ship-owners liability and therefore has a low maximum limit of compensation which wouldn't be enough to cover the cleanup costs for a major incident. Also whether or not they feel there is any support for a strict liability convention at the moment you would still have to take your claim to court and prove negligence, which is also very costly.

My view is that the chance of getting an entirely new convention is very low however LLMC 96 could be changed to increase the level of compensation and to make it strict liability. This would achieve the same end result by a different means.

*To ensure that all containers are weighed before being transported and that the weight corresponds to the ship's cargo manifest.*

They are correct that the weight of the container must be report under SOLAS but this is done by the shipper and is often wrong and is one of the main sources of container stack collapses. Therefore the weights should be checked as the containers enter the port and this relayed to the ship. The Netherlands will submit something to the IMO based on the lashing @ Sea report I put to the Board in May and that is what they are refereeing to I will let you know as soon as I see something.

*To fix automatically activated transmitters to all containers so that it is possible to identify and retrieve them if they are lost over board.*

It is all very well to say they are number but it doesn't help you find containers floating in a busy shipping lane during the night or ones that have sunk to the seabed full of hazardous containers. Also on many occasions the contents of containers have turned out to be different from what has been marked on the

manifest. Technology is advancing all the time and a phased in process starting by tagging the most hazardous containers could be started at lower cost.

*To examine the specifications and maintenance systems of the se-curing system connecting containers.*

I can't argue with the response however we can always push for them to be strengthened further. Also when the Dutch government recently did an intensive period of inspections in Rotterdam they found that 50% of containers were not secured properly. (I don't know if this has been published yet so we can't really use it until I get the proper report).

*To introduce economic penalty and compensation systems for costs in connection with the retrieval of lost containers.*

I have had a look at the Nairobi Convention on Wreck Removal the definition of a wreck is below.

“Wreck”, following upon a maritime casualty, means:

- (a) a sunken or stranded ship; or
- (b) any part of a sunken or stranded ship, including any object that is or has been on board such a ship; or
- (c) any object that is lost at sea from a ship and that is stranded, sunken or adrift at sea; or
- (d) a ship that is about, or may reasonably be expected, to sink or to strand, where effective measures to assist the ship or any property in danger are not already being taken.

Therefore we need to seek some clarification because as far as I can see it only relates to containers that have fallen off a sunken or stranded ship. If a container just falls off during a storm they are not covered by the convention. It would be good to get their interpretation of this point. Secondly although it is a direct liability convention, which is a good step, the compulsory insurance is only at the same level as the LLMC 96 and therefore too low.

“...but in all cases not exceeding an amount calculated in accordance with article 6(1)(b) of the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.”

Danish Ministry of Environment

It might be worthwhile sending the Lashing @ Sea report to the Danish Working Environment Authority because in that report they identify additional loads in stacks of container partly due the size of new vessels and overweight or poorly stowed container that are over and above the design specifications. Particularly pages 40 and 41 in the conclusions.