

A presentation by
HILL DICKINSON

SEADOCC

SCMA Expedited Arbitral Determination of Collision Claims


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Andrew Gray and Tony Goldsmith


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SEADOCC – The background

- The SCMA Expedited Arbitral Determination of Collision Claims (“SEADOCC”)
 - Two years ago discussion Andrew Gray and Tony Goldsmith
 - Meeting with senior managers from P&I Clubs in Singapore
 - Support for the idea of a “small claim” collision service and discussions to define what that might mean
 - Crucial support of the SCMA and others
 - Consultation process with various parties, including other law firms. Broad support and plenty of input
 - Slight change in name from SEDOCCS to SEADOCC
 - The launch today!
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SEADOCC – A summary

- The SCMA Expedited Arbitral Determination of Collision Claims (“SEADOCC”)
 - Procedure governed by the SCMA
 - An arbitration procedure to determine collision liability resulting in the publication of a binding arbitration award
 - Has the force of an Arbitration Award under the International Arbitration Act (Cap143A) in Singapore
 - The juridical seat of the SEADOCC Arbitration shall be in Singapore
 - Drafted by Hill Dickinson
 - Support and input from SCMA, SMF and many insurers and senior maritime interests in Singapore
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Collision

- Collision between two or more ships
 - Personal injury/loss of life
 - Damage to ships and cargo
 - Environmental pollution and damage to third party property
 - Salvage services
 - Owners and managers
 - Cargo interests
 - Insurers
 - P&I
 - Hull and machinery
 - Cargo
 - Apportionment of liability
 - Inter-ship claims
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Casualty response

- Investigation
 - Owners' superintendents
 - Liability insurers
 - Maritime lawyers
 - Surveyors
 - Class surveys
 - Maritime authorities
 - Evidence
 - Witness statements
 - Documentary evidence
 - Electronic evidence onboard – VDR, ECDIS, GPS
 - Third party electronic – VTIS, AIS
 - Inter-ship security, liability and claims
 - Where did it take place – natural forum?
 - Law and jurisdiction?
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Investigation - always necessary?

- Ideal world
- Sometimes these steps are not taken for many reasons
- A full casualty investigation is a judgement call for the Owners and their liability insurers
- Minor scrape or major casualty?
- Danger of potential lack of evidence



Collision claims and litigation


- Lawyers appointed
- Investigations undertaken
- Evidence obtained
- Negotiations take place but falter
- Litigation
 - Writ/Claim Form
 - Procedural steps
 - Trial and judgment
- Legal costs
- Is this always appropriate?




Arbitral determination of collision liability

- What is meant by “arbitral determination”?
 - Two (or more) parties dispute liability for a collision, protracted negotiations but unable to reach agreement on the apportionment of liability.
 - Both parties prepared to accept a binding determination of liability by a recognised expert in the field appointed as an Arbitrator
- When might this be appropriate?
 - Generally quantum involved relatively low
 - Potential lack of evidence
 - Entered with the same P&I Club
 - Two P&I Clubs/Owners deadlocked
 - Costs of litigation obviously disproportionate to the amounts at stake
 - Parties need to determine liability and if possible resolve the inter-ship claims in cost effective manner.
 - Saves costly and potentially lengthy litigation.

Appropriate to all collisions?

- Certainly not be appropriate for all collisions
 - Particularly those where the questions of liability are complex and/or the quantum is significant, or where there are multiple interested parties.
 - Should not discourage parties from obtaining proper evidence where appropriate
 - Not intended to replace conventional means of dispute resolution but rather to compliment them
 - Enhance the existing maritime legal services available to the shipping community in Singapore.
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What is SEADOCC?

- SCMA Expedited Arbitral Determination of Collision Claims
 - Maritime arbitration procedure, governed exclusively by the Singapore Chamber of Maritime Arbitration
 - Provides a binding decision on liability for a collision between two or more ships by a single appointed Arbitrator
 - May be extended to quantum and settlement of claims
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Why SEADOCC?

- Expert determination / Arbitration
 - Isn't this all a bit of old hat?
 - We've been doing this for ages!
- SEADOCC
 - Regularises ad hoc procedures
 - Creates a pool of recognised experts as SEADOCC arbitrators within Singapore
 - Results in an arbitration award
 - Under the auspices of the SCMA
 - Enforceable award

SEADOCC – The Arbitrator

- Arbitrator is appointed jointly by the parties to the dispute on liability arising out of the collision
 - Who?
 - Parties will be free to appoint any person as an Arbitrator
 - Legal or practical experience in dealing with claims arising from collisions between vessels
 - Drawn from the maritime community in Singapore
 - Once issued an award under the SEADOCC procedures name placed on a list of SEADOCC arbitrators maintained by the SCMA
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SEADOCC Terms

- Appointment of an Arbitrator
 - Initial assessment
 - Engagement letter setting out terms and rates
 - Submissions
 - Summary of the background facts and evidence bundle (14 days)
 - Review of evidence (14 days)
 - Additional evidence (14 days)
 - Draft written award (Four weeks)
 - Further written submissions (21 days)
 - Liability award (Four weeks)
 - Inter-ships claims (quantum)
 - Costs and fees – 50/50 irrespective of outcome
 - Singapore Law and jurisdiction
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The value of SEADOCC

- Body of expertise in time
- Framework
- Adjustable by agreement
- Simple rules
- Relatively quick
- Confidential (unlike Court proceedings)
- Finality of award



Health warnings

- Multi-party cases
 - Agreement to use SEADOCC could take time to co-ordinate (Owners, cargo, underwriters)
 - Day in court
- Complex liability issues
- Quantum large – liability percentage could be significant
- Not rely on using SEADOCC when deciding how to respond to a casualty
 - Gathering proper evidence should not be delayed
 - Take proper evidence where appropriate

Developments

- SEADOCC terms have been drafted
- Consultations carried out
- SCMA formal launch today
- Please use the procedure!



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