

## UNIT FIFTEEN

### SEA PROTEST

In any of the circumstances enumerated below it is advisable for the master to note a protest.

1. Whenever during the voyage the ship has encountered conditions of **wind and sea** which may result in damage to cargo.
2. When from any cause the **ship is damaged**, or there is reason to fear that damage may be sustained.
3. When through stress of weather it has not been practicable to adopt normal precautions in the matter of **ventilation** of perishable cargo.
4. When cargo is shipped in such condition that it is likely to suffer **deterioration** during the voyage. In this case, however, the protest will not be effective unless the bills of lading were endorsed to show the condition of the cargo at the time of shipment.
5. When any serious **breach of C/P terms** is committed by the charterer or his agent, such as refusal to load, unduly delaying loading, loading improper cargo, refusal to pay demurrage, refusal to accept B's/L in the form signed by the master, etc.
6. When consignees **fail to discharge** cargo or take delivery thereof, and **pay freight** in accordance

with C/P or B/L terms.

7. In all cases of **general average**.

Protest should be noted as soon as possible, certainly within 24 hours of arrival in port. and in the case of cargo protests before breaking bulk.

A **"note of protest"** is simply a declaration by the master of circumstances beyond his control which may give, or may have given, rise to loss or damage. Such declaration must be made before a notary public, magistrate, a consular officer, or other authority. Usually, statements under oath will be taken from the master and other members of the crew and these statements will have to be supported by appropriate log book entries. At the time of noting protest the master should reserve the right to extend it.

Protests are admissible in evidence before legal tribunals and, in many cases, are essential to the establishment of a claim.

- (a) In many countries, particularly on the Continent protests are received in evidence as a matter of course.
- (b) In the United Kingdom, however, they are not accepted as evidence in favour of the party making the protest unless both parties consent. The chief use of a protest in the United Kingdom is to support a claim by a cargo owner against his underwriters. There is no legal necessity for a protest in the United Kingdom and legal rights are in no way affected if a protest has not been noted.

On the Continent the position is different; there the noting of a protest is a condition precedent to certain legal remedies. For example, consignees cannot make a claim for cargo damage unless they protest within 24 hours of taking delivery of the goods and follow this up by a court summons within one month. The master, if he delivers the cargo and accepts the freight, will be barred from claiming the cargo's contribution in general average unless he notes protest within 24 hours and notifies the consignee that he has done so.

It is not essential that a protest should be made on a special form but it is advisable and usual in practice.

A typical protest form reads as follows:

**NOTE OF PROTEST (US)**

On this \_\_\_\_ day of \_\_\_\_ in the year One Thousand Nine Hundred and \_\_\_\_ personally appeared and presented himself before me Consul/Notary Public \_\_\_\_\_, \_\_\_\_\_ Master of the \_\_\_\_\_ called the \_\_\_\_\_ of \_\_\_\_\_ Official Number \_\_\_\_\_ and Tons Register, which sailed from \_\_\_\_\_ on or about the \_\_\_\_ day of \_\_\_\_\_ with a cargo of \_\_\_\_\_ bound for \_\_\_\_\_ and arrived at on the \_\_\_\_ day of \_\_\_\_ and fearing loss of damage \_\_\_\_\_ owing to \_\_\_\_ he hereby notes his protest against all losses, damages & etc., reserving right to extend the same at time and place convenient.

Signed before me \_\_\_\_\_ (signed)  
Consul Master

Notary Public at \_\_\_\_\_ (signed)

this \_\_\_\_ day of \_\_\_\_ Two Thousand.....

I certify the foregoing to be a true and correct copy of the original Note of Protest, entered in the Acts of this Consulate and copied therefrom.

Consul

Date

Here are some more examples of sea protests and extracts from logbooks:

(1)

**NOTE OF PROTEST (UK)**

**Be it hereby made known:**

That on this the \_\_\_\_\_ day of \_\_\_\_\_ in the year of Our Lord, **Two Thousand and \_\_\_\_\_** and personally appeared and presented himself in the office of Attorneys and Notaries before me, **John Mills** ,  
Notary Public, by the authority of Government, duly admitted and sworn, **Henry J. Smith** \_\_\_\_\_,  
Master or Commander of the **MV Greenhouse**  
which sailed on a voyage from \_\_\_\_\_ on the **23rd**  
\_\_\_\_\_ day **January** \_\_\_\_\_ **20\_\_** laden with a **full**  
**and complete cargo of \_\_\_\_\_** calling at  
**Algeciras** and **Port** of **New York**  
\_\_\_\_\_ and arrived at this Port  
on **15th** \_\_\_\_\_ day of **February 2004** now lying within the  
harbour. And the said Appearer did hereby declare to note  
his protest against all perils, dangers, casualties and  
occurrences of all nature or kind whatsoever and all loss or  
damage thereby occasioned, reserving to himself the right  
to extend the protest in times and places convenient, and  
causing this minute of all singular the premises to be  
entered in this register.

(Sgd)

Agents.

Master.

QUAD ATTESTOR

Notary Public

(2)

Notary Office:  
Genoa, Italy

*I \_\_\_\_\_, Master of the M/V \_\_\_\_\_ under the flag of the Republic of Croatia, owned by \_\_\_\_\_, Croatia, Gross Tonnage \_\_\_\_\_, Net. Tonnage \_\_\_\_\_, sailed from Rijeka, Croatia on \_\_\_\_\_, to Genoa, Italy, via Venice, Italy with a full load of bulk wheat of \_\_\_\_\_ Tonnes.*

*During the voyage the vessel met with stormy weather and heavy seas, the ship suffered rolling and pitching, heavily shipping water fore and aft and spraying overall.*

*All precautions were taken to save the cargo and the ship but nevertheless, **fearing damage to the cargo during the bad weather, I state the present sea protest**, reserving the right to extend the same at the time and place convenient.*

Witnesses:

1. \_\_\_\_\_, Second Mate
2. \_\_\_\_\_, Chief Engineer,  
Master
3. \_\_\_\_\_

The Notary Office

(3)

Note of Protest

To .....

I, ....., signed below, in command of M/V ..... under ..... flag, of ..... gross and ..... net tons, owned by ....., loaded with ..... tons of general/bulk/liquid cargo, sailed from ..... to ....., arriving in ..... on ..... 19...., bring this protest against unlawful stopping and detention of my vessel by the ..... Authorities/Navy.

On the date ..... after passing ..... at ..... hrs local time on position ..... **I have been summoned by a patrol/war ship** carrying the colours of ..... to reduce speed and prepare for search. Upon examination of the ship's papers and cargo manifest the ship was released on ..... at ..... hrs free to proceed to her destination. The above said been duly noted in the ship's official log, pp. ....

As this is considered as an act of hostility and violation of the international law upon the high seas, **I herewith lodge this protest** and repudiate the responsibility for the possible consequences which may arise therefrom.

(4)

Extract from logbook: heavy weather damage.

*4 December, 19\_\_ , 0800. On voyage from Yokohama to San Francisco with full cargo of uncrated motorcars (480). Course 068 true, speed 22.0 knots, wind S 7, sea 5, bar. 996 mb., overcast with squalls.*

*0830. received facsimile weather chart which indicated that a depression near Japan was quickly growing in intensity and moving eastwards at a speed of over 40 knots. Expected to overtake the ship early in the afternoon. All lashings on cargo were checked and in some cases doubled.*

*1000. Wind S9, sea 7, bar. 990 mb. falling rapidly, squalls. Hove to on a southerly course, speed about 3 knots. Rechecked cargo lashings.*

*1010 to 1535. Hove to in position: 38° 18' N; 155° 50' E. Wind of hurricane force, S 10 to 11, in the squalls up to 12 and over. Very heavy sea and fierce squalls. The ship is riding fairly easily, but rolls violently at times.*

*1445. Passage of cold front. Sudden shift of wind from S 12 to W 12. Bar. 972 mb. Heavy continuous rain. Ship buried in foam and spray.*

*1500. Wind W 10, mountainous cross sea, bar. 986 mb.*

*rising rapidly. Wind beginning to moderate.*

*1535. Wind W 8, sea 7, bar. 990 mb., cloudy. Weather conditions improving. Resumed voyage on course 090 true, speed 12 knots.*

*Inspected all holds and found that a lorry lashed in No. 2 upper tween decks portside had come partly adrift and had damaged three motorcars marked Honda 850.*

*1800. Wind W 7, sea 6, bar. 1000 mb. Weather conditions sufficiently good to increase to full speed, 22.0 knots, course 080 true.*

*The turnaround this time was fairly quick and the ship is expected ready to leave for Buenaventura tonight.*

*Master*

## **QUESTIONS**

1. What is the most frequent reason for entering a sea protest?
2. When will the condition of the cargo shipped be acceptable as a reason for entering a sea protest?
3. What are the other reasons for filing a protest?
4. Within what time should a protest be noted?
5. What is the purpose of the sea protest?
6. Where is the note of protest lodged?
7. Where is the protest used as evidence?
8. Is the sea protest accepted as evidence in the UK?
9. What is the use of the marine protest in other European countries and Croatia?
10. When will the consignee be able to claim for cargo



damage?

11. What must the sea Protest be supported by?

## EXERCISES

### I COMPREHENSION AND VOCABULARY

1. Fill in the appropriate form of the verb in brackets:  
(**LODGE, EXTEND, RELIEVE, ENTER, RAISE, ACCOMPANY**)

1. A sea protest must \_\_\_\_\_ within 24 hours of the ship's arrival
2. Sea protests \_\_\_\_\_ in cases of collision, fire on board, unfavourable weather, engine breakdown, generator failure, etc.
3. A protest can \_\_\_\_\_ later on if necessary.
4. Sea protests are among the most important documents produced when claims against the Insurers.
5. Protests serve to \_\_\_\_\_ the Shipowner from liability for alleged damage or loss to the ship or cargo.
6. A sea protest must \_\_\_\_\_ by copies of the deck log book and of the engine-room log.

2. Fill in the blank spaces with the words in brackets (deck log): (**DROPPED, HEAVE, PROCEEDING, APPARENTLY, SIGNALS, PRESCRIBED, PASSED, CAUSING, LODGING, HEARD,**

COMING)

10.00 Poor visibility. \_\_\_\_\_ at half speed on variable course.

12.00 Foggy weather and restricted visibility. \_\_\_\_\_ anchors in position 40°03' N; 31° 00' E waiting for improvement of visibility. Strengthened, uninterrupted watch and sounding blasts on ship's whistle.

12.30 Fog signals are \_\_\_\_\_ from a vessel underway \_\_\_\_\_ from port side forward. To attract her attention we gave fog consisting of short blasts and flare-up lights as \_\_\_\_\_ by the Rules of the Road.

13.15 Heard a sound of heavy stroke coming from port side forward. The incoming vessel by our portside, struck the portside quarter, then bruised heavily the port shell plating, \_\_\_\_\_ heavy damages.

13.40 It was proved that the colliding vessel was the m/v "SOLAS".

14.10 \_\_\_\_\_ up both stbd. and port anchors. Engines stand by.

14.15 Slow ahead. Proceed to Barcelona for \_\_\_\_\_ protest and repairs.

14.20 Full speed ahead toward Barcelona.

3. Supply the missing words (engine log): (ENGINE, STRUKE, BILGES, SPEED, ANCHORS, DAMAGE)

10.00 Half \_\_\_\_\_ ahead.  
11.00 Slow ahead  
11.15 Stop  
12.05 Dropped both  
13.15 Heard strong sound of heavy \_\_\_\_\_ on  
the portside forward  
13.30 No \_\_\_\_\_ to engine. We fear damage to  
shafting line  
13.50 Sounding and checking engine  
found dry.  
14.00 Stand by engine; heave up both  
14.15 Slow ahead  
14.20 Full speed ahead.

## II GRAMMAR

1. Verb + Noun (object) Collocations. Study each sentence in the text where the noun "protest" appears, then find and underline all the verbs that take this noun as object (or subject of a passive sentence); e.g.: "note a protest".

2. IT + BE + ADJECTIVE + to-INFINITIVE.

Compare the following pairs of sentences:

### that-CLAUSE

1. (a) It is advisable for the master to note a protest.  
(b) It is advisable that the master notes a protest.
2. (a) It has not been practicable to adopt normal

precautions in the matter of ventilation

- (b) It has not been practicable that normal precautions in the matter of ventilation be adopted.
- 3. (a) It is not essential to make a protest on a special form.  
(b) It is not essential that a protest is/be made on a special form.

Replace the TO-INFINITIVE constructions with THAT-CLAUSES as in the above examples:

1. It is necessary to note a protest immediately.
  2. It is important to support the notes of protest by extracts from the logbook.
  3. It is advisable to insist on the presence of the agent when noting a protest.
  4. It is necessary to consult the logbook and other ship's documents.
  5. It is advisable to note a protest in the first port of call.
  6. It is most convenient to enter the ship outwards as soon as the Jerque Note has been issued.
  7. It is important for the protest to be signed by witnesses.
3. Translate the above sentences (II 2) into our language. Note that IT is not translated by its equivalent T0, e.g.:
1. Nužno/potrebno je .....

2. Preporuča se/preporučljivo je .....

### III TRANSLATION

1. (Extracts from a deck log)

#### 10. Svibnja

04.20 NE vjetar jacine, nalazimo se bocno od rta Elli. Prošli smo Dardanelski prolaz. Prolazimo tjesnacem Tenedos.

04.30 NE vjetar jacine 5, nalazimo se bocno od otoka Tenedos.

04.40 Kurs 212°, teret redovno ventiliran

08.20 Pretežni tank ispražnjen, kotlovi napunjeni vodom iz tankova u strojarnici

10.15 Upravitelj stroja izvještava da napojna pumpa (feed pump) kotla ne radi normalno i da je isključena. Treba je pregledati (overhaul).

12.10 NE vjetar jacine 5, kurs 212°. Predena udaljenost 180 milja, vrijeme 22 sata, brzina 8 cvorova. Nebo oblacno, more umjereno do uzburkano (rough). Teret redovno ventiliran. Izmjerene kaljuže (sound).

13.20 NE vjetar jacine 7/8, kurs 212°. More jako valovito. Brod se valja i posrce. Valovi udaraju (hit) o palubu i povremeno (at intervals) prelamaju preko grotala (break). Zbog lošeg vremena teret se ne ventilira redovno.

14.00 NE vjetar jacine 8/9, kurs 212°. Veoma visoki valovi. Zbog nevremena teret se ne ventilira

redovno. More je možda ušlo (find way into) u skladišta i smocilo (wet) teret. Ovo navodim radi zaštite interesa broda i tereta.

## 11. Svibnja

07.00 NE vjetar jacine 6/7, kurs 260°. Nalazimo se u blizini luke Pirej. Udaljenost 4 milje. "Pozor u stroju".

09.00 Oborili sidro kod Pireja.

09.15 Dobili "slobodan saobraćaj". Obavljamo (comply with) luke i carinske formalnosti.

12.30 Prosljedili za luku Pirej.

13.40 Vezani u bazenu za generalni teret. Zatražili snabdijevanje vodom i gorivom.

14.30 Zapocele trgovacke operacije.

2. Da bi se prijavila pomorska nezgoda potrebno je potkrijepiti (support) prijavu izvacima iz dnevnika.
3. Bitno je da se protest prijavi u roku od 24 sata po dolasku broda u luku.
4. Nemoguće je da brodar uvijek zna točno vrijeme krcanja broda.
5. Korisno je znati postupak (procedure) za prijavu pomorske nezgode.
6. Važno je znati gdje se može prijaviti pomorska nezgoda.

## **IV GUIDED WRITING**

1. Make an outline (headings and sub-headings) of the text on the Note of Sea Protest. The outline should help you as a reminder in presenting the text both orally and in writing. Use PowerPoint or transparencies (slides).

Suggestions:

1. _____
2. _____
2.1 _____
2.2 _____
2.2 (a) _____
2.2 (b) _____
2.3 _____
3. _____
4. _____
5. _____

2. Make up a sea protest on the basis of the following headlines (add other information if necessary):

- your vessel name "ŠKOLJ"
- cargo carried: refrigerated container cargo
- voyage: Rijeka to Boston
- cause of protest: breakdown of main generator - no power for 10 hours
- damage feared: possible deterioration of frozen and chilled cargo due to power failure in supplying reefer containers

