



# EXAMINER'S REPORT NOVEMBER 2018

## SHIPPING BUSINESS

### **1. Discuss the various functions of the administrative departments, inclusive of the Company Secretary and their functions within a public listed company organisation.**

Students had to demonstrate knowledge of the core departments and their functions.

The secretariat – only member recognised by law, responsible for company complying with all legal requirements. Whilst subordinate to the directors, (shareholders can fire), it is the only permanent position and is the company point of contact with the authorities ie tax and registrar of companies

HR department – critical role in recruitment and retention, training, promotion and dismissal. Need to be aware of laws relating to staff , redundancy, discrimination, outsourcing of crew

The Accounts department – financial accounting, management accounting , credit control budgetary control

A small number of students confused the role of company secretary with that of a secretary and went off on a tangent about the incorrect functions.

When it came to the HR department answers should discuss training and the importance of ensuring that staff received ongoing training so that succession planning could be practiced

### **2. Some companies produce annual accounts of the company's financial position. Describe these financial statements and explain their functions?**

Profit and loss account – mention that it is a record of the company's trading activities over the past year. That it shows total income, overhead expenses and either the total profit or loss. That the before tax figure is useful when comparing how the company has done compared with the previous year

Balance sheet – It is a snap shot of what the company has in terms of assets and liabilities as at that date. Be able to define what are assets (fixed and current)and what are liabilities (loan capital, creditors, pending legal disputes)

Cash flow statement – financial statement reflecting cash generated and used by the company. Know that creditors should be higher than debtors and the potential dangers of a negative or poor cash flow

Answers should be detailed.

Good answers for the P&L and the Balance sheet should discuss cash flow statements.

**3. Answer BOTH parts of the question:**

**a) Give three examples of maritime fraud.**

**b) Explain what steps companies take to protect themselves against maritime fraud.**

Part A

Insurance fraud – scuttling ships for the insurance, over insuring vessels and cargo

Documentary fraud – the bill of lading typing up and releasing a false bill of lading. Letter of credit

Under measuring cargo in an effort to reduce freight charges

Letters of indemnity – fraudulent attempts to issue a LOI to allow clean bills of lading to be produced for loading damaged cargo

Smuggling

Bribery – another form of fraud

Cyber fraud

Part B

Check the credentials of the customers and clients, do credit checks, credential checks within the industry, chamber of commerce, BIMCO and IMB and staff training. Rightship and TRACE are also useful tools when carrying out due diligence on.

This question was about fraud and yet a large number of students decided to focus on ethics and unethical practices. It is important to answer what has been asked.

The number of versions of the MT Salem being scuttled was interesting, but if you are going to quote an actual event, it is important that you get the facts correct.

Piracy whilst being a criminal act is not fraud.

**4. A seller is considering entering the market with a cargo of bulk coal loading in Gdansk, Poland and offering this product to a new customer in Zhanjiang, China. Describe the finance options available to the sellers and buyers with four likely Incoterms options that could be used.**

A good description of methods of sale available to be used including cash in advance and documentary letter of credit. Give reasons why open account will not be used with a new buyer.

Identify four Incoterms with a brief description of each and the selection of an appropriate Incoterm that will match. Better answers will select a marine Incoterm that allows sale against a DLC.

The view on risk may vary and so all Incoterms were considered with marks being awarded for justifying which terms were chosen. FOB, FCA or even EXW in cases where the seller simply wanted to hand over the cargo and not be any further involved, or CFR, CIF, CIP, CPT, DAT, DAP and DDP, when the seller wished to control the process.

Extra marks for students who include a drawing of a process of a DLC and mention of forms of dispute resolution in the event of disagreement.

Quite a few students forgot to answer the full question. They gave great detail on the Incoterms, but then never mentioned the finance options or the dangers with an open account.

**5. Explain how a documentary letter of credit works, the supporting documentation required and discuss why it is a safe way to conduct business transactions.**

Discuss how the letter of credit works – 4 parties involved seller, buyer, buyers bank, and sellers bank. Use of UCP600 rules by the bank in reading draft documents.

Terms must be strictly adhered to. Mention International Chamber of Commerce

Clean bill of lading, insurance, commercial invoice, draft survey. Trackable process that must strictly adhere to the agreed process set out with the buyer, the banks and the seller at the beginning of the sales negotiation. Cargo, whilst at sea considered being in the same condition as when it was shipped. This protects both the buyer and the seller

Very few students discussed the status of the cargo whilst the ship was at sea and what role this played in the ability to on sell the cargo.

**6. The Baltic Exchange and BIMCO (the Baltic and International Maritime Council), may sound similar, but their functions are unique. Discuss the origins, nature and structure of each, what their members expect and what they expect of their members?**

Mentioning of the details below.

Baltic Exchange – founded in 1823, mention Virginia and Maryland Coffee House, Virginia and Baltic 1744. Merged with London Shipping Exchange 1900. Daily trading on the floor of the Exchange. Now stopped with the advent of electronic trading. Independent source of maritime market info, freight indices, acquisition by Singapore Exchange. Baltic Dry Index – Cape, Panamax, Handy. Makeup of the Board (12 + 3 Directors). Ethics, Our Word Our Bond. Headquarters in London

BIMCO – founded 1905 by ship owners engaged in Baltic and White Sea trades. Bonus for knowing Baltic and White Sea Conference was original name and that it was focused on timber trades. International membership of 2300 organisations, representing owners, operators, shipbrokers and agents, lawyers and P&I clubs. Headquarters in Copenhagen

Objective is to facilitate commercial operations of its members by developing standard contracts and clauses. Also focused on education – offers one day courses in collaboration with FONASBA.

Generally a well answered question by students who knew the two organisations

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**7. Answer BOTH parts of the question.**

**a) Identify the main functions of a bill of lading in the loading, sale and delivery of a cargo of steel coils.**

**b) What are the usual problems associated with the movement of this product and how the bill of lading is used to support this commercial trade of these goods.**

A good description of the three functions of a bill of lading including receipt for goods, evidence of the contract and document of title.

Describe the role of the bill of lading and mates receipt, clausing bills of lading clean or dirty. The problems associated with loading damaged steel coils and rejection of a dirty bill of lading where a DLC is used. The fraudulent use of an LOI to facilitate clean bills of lading.

The role of the bill of lading as a negotiable document of title, made out to order to facilitate sale of goods in transit to destination.

The role of the bill of lading as evidence of the contract entered into between buyer and seller prior to shipment of the cargo. These terms in the bill of lading used by a third party in dealings with the shipowner.

Knowing the RETLA clause that is used to cover acceptable surface rust on the outer surface of the steel

Few students mentioned the fact that steel cargoes usually have some degree of surface rust prior to shipping and that this must be recorded on the mates receipt.

There was some confusion as to part B with students discussing physical movement of the cargo at sea instead of the process of selling the cargo, its shipment and handover to the buyer

**8. Discuss the advantages and disadvantages to both the owner and the charterers in appointing of the Charterer's nominated agent. How the nomination should be stated in the party charter and legally who does the agent represent?**

Advantages – agent who is an expert and a specialist in the cargo being handled

Avoid demurrage costs, , protect trade secrets and avoid the charterers competitors agent being appointed

Charterer is kept updated and has an agent keeping an eye on the charterers interests

Disadvantages – small agency may struggle with cash flow and not pay the port costs

No knowledge of agent and yet must remit a large amount of funds to them

Potential conflict of interests where the owner feels the agent is favouring the charterers interests, example statement of facts

Owners to appoint agents nominated by the charterers at the port of---- --

The agent represents the owner

Too many students simply rattled off what an agent does without distinguishing the difference between what a charterer requires and what an owner needs.

The fact that the nominated agent would benefit both parties in avoiding demurrage was not raised

by many students and yet it is an obvious benefit of appointing an expert in the cargo or terminal. Similarly the dangers of appointing a one man band without checking upon their financial status should have been one of the first disadvantages mentioned.