



**SHIPOWNERS**

SECURITY FOR SMALL & SPECIALIST VESSELS



## ▶ Bora5 barge towed into Dutch bridge

On 23 April 2012 our Member's non self-propelled barge, Bora5, was towed along canals from Schagen to Den Helder by two tugs, Emeraldine and Hardine. At the conclusion of the towage it was reported that the barge had struck a bridge that crosses the canal.

Category  
Towage Liabilities

Vessel type  
Barge



## Insight

The Dutch General Towage Conditions (Algemeene Sleepconditie 1946) are one of a group of standard towage conditions, including the Scandinavian, German and Australian towage conditions, which are based on the UK Standard Towage Conditions (UKSTC). These conditions originated in the 1930s and were promoted by tug owners across the UK, owing to their exclusionary provisions, which seek to protect the tug owner and restrict any liability they might have arising from the towage operation. The conditions are in such widespread use that it is generally accepted that any work undertaken by a tug in a UK port will be deemed to have been completed on the basis of UKSTC. In other words, the terms will likely be incorporated into the contract by reason of a common understanding in the trade.



## Prompt Analysis

Having dealt with many claims involving damage to bridges and other municipal property in Western Europe, we were aware that the potential costs of any damage claim could be significant. Not only will there normally be a claim from the public authorities for the repair costs to the object itself, but there can also be claims from businesses and civilians for loss of use. Use of online mapping and video resources allowed us to immediately establish that the damaged bridge was a joint car, cycle and footbridge, operated via a drawbridge system. We were able to appoint a specialist surveyor to attend the scene and inspect the bridge the same day. The cost of repairs were estimated at up to EUR 650,000.

## Responsibility vs Liability

Our Member's barge could not be said to have been negligent, being unmanned and non self-propelled; responsibility for the incident lay with the skipper of the towing tug Eemshorn, who admitted oversteering to starboard whilst passing the bridge. However, our investigations showed that the Dutch Standard Towage Conditions applied to the towage operation. Under these conditions we were aware that our Members, as the tow owners could be held liable for any damage caused to third party objects during towage, regardless of negligence.

The Club's local Correspondents are vital to the positive resolution of claims such as this one. Our Correspondents acted quickly to appoint a surveyor with appropriate engineering knowledge, gathered the applicable contracts and liaised with the local authorities. If we had chosen to 'maintain a low profile', our Members could have been faced with a claim years later of EUR 650,000 or more. By taking a proactive approach the claim was resolved quickly and cost-effectively.

## Outcome

Our Member's barge had a limitation figure of EUR 127,000, so we quickly acknowledged the liability position and took steps to negotiate a final settlement of the claim on the best terms possible. We were able to discover, via our surveyor's investigations, that the bridge was due to be upgraded. Relying on this, and the vessel's limitation figure, we managed to negotiate a positive full and final settlement with the authorities at EUR 100,000. This figure represented 90% of the cost of temporary repairs, which allowed the bridge to function until general upgrade work could be brought forward. We pursued the responsible tug's owners for a contribution to the settlement and received a 25% recovery from them (EUR 25,000) to avoid any litigation risk.



Bridge misalignment