



Major Casualties Dept.

International Department

ANNUAL REPORT

A year of accomplishments

2018



CESAM

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1. 2018 IN REVIEW

1.1 PROGRESS OF CASES

1.1.1 Ongoing cases

The stock of cases under management at CESAM’s Major Casualties Department for 2018 represents 41 major casualties cases (3 of which are new) including approximately 466 subcases¹ submitted by member and non-member insurers.

Summary sheets are available to insurers on request for each major casualty.

The total amount of provisions set up and recommended by CESAM amounts to € 1,045,252.05 and USD 12,222,098.11 for all cases in progress at the end of 2018: a total of € 11,690,332.84².

In addition to these cases, the Major Casualties Department continues to manage a number of atypical cases, which will be discussed in more detail in section 2.1 of this report.

1.1.2 Closed cases

Vessels*	Casualty date	Vessel type	Closure date	Casualty	Year of claim
CAPE MORETON	12.09.2015	Container ship	22.06.2018	Fire	2015
NYK ARGUS	20.10.2004	Container ship	17.08.2018	Fire	2004

**These two general average cases were closed by the Major Casualties Department in 2018 following the payment of general average contributions or after the shipowner had waived the general average proceedings.*

1.1.3 Savings

Vessels	Vessel type	Casualty date	Recourse / Amicable settlement	Starting rate	Changes in GA provisions	Comments	Closed cases
CAPE MORETON	Container ship	12.09.2015		35%	Reduced rate : 9.3%	Reduction in the general average contribution rate from 35% to 9.3%	X
NYK ARGUS	Container ship	20.10.2004		2%	General average waived		X

1 Each subcase corresponds to a separate insurance policy.

2 Conversion rate at 31/12/2018 is \$ 1 for € 0.87097.

1.1.4 Open cases

Year	Casualty date	Vessel	Vessel Type	Casualty
2018	07.03.2018	MAERSK HONAM	Container ship	Fire
2018	30.08.2018	WAN HAI 502	Container ship	Grounding
2018	22.09.2018	APL LOS ANGELES	Container ship	Grounding

1.2 CASE CHARACTERISTICS

1.2.1 General average and particular average

2018 once again confirmed the need for integrated management of particular average occurring in the context of a general average case managed by CESAM. As we have already indicated in previous years, this mainly allows the adjuster to better manage this particular average when analysing the contributory value of cargo interest. Separate management of these two types of average can be detrimental, particularly when the particular average, covered by the insurers, has not been clearly endorsed by the general average dis-

1.2.2 The importance of amicable settlements

2018 has once again demonstrated the importance of amicable settlements in general average cases, particularly in the case of the “CHARLOTTE MAERSK”³.

Indeed, in this case, we were opposed to the payment of general average contributions (USD 471,000 for the cargo interest represented by CESAM) since the filing of the general average settlement in January 2016. After numerous meetings between lawyers representing the different parties, fire surveyors, etc., an amicable agreement was reached to avoid lengthy and costly legal proceedings.

2. 2018 REPORT

2.1 APPRAISAL MILLIONS & UNUSUAL CASES

Totally atypical cases were still being managed by the Major Casualties Department in 2018.

³ A fire occurred on 07.07.2010 while the container ship was en route to Port Kelang (Malaysia) with more than 4000 containers on board. In this case, the fire surveyors who intervened on behalf of the cargo insurers very quickly suspected that a container carrying dangerous goods was the cause of the fire following an auto-ignition resulting from the poor power supply of this refrigerated container. Our lawyers in this case (Roose + Partners) therefore opposed the payment of general average contributions (general average settlement filed on 25 January 2016) by highlighting the vessel’s unseaworthiness at the beginning of the voyage.

2.1.1 «PICASSO» case

The PICASSO case⁴ already mentioned in previous reports did not change in 2018.

2.1.2 «SS HARROVIAN» case

In 2017, CESAM was approached by the British administrative authorities about the recovery of a cargo of copper that was aboard the SS HARROVIAN when it was sunk by a German submarine off the English coast on 16 April 1916. CESAM had asked the British authorities to keep it informed of any operations undertaken on this vessel, but no developments were reported this year.

2.1.3 «SOLIDOR II» case

In 2018, the Major Casualties Departement finally resolved the “SOLIDOR II” collision file (Emeraude Line insured)⁵ for which a guarantee had been issued.

2.1.4 «SUDCARGO» case

2018 also made it possible to finalise the amicable agreement concluded between CMA CGM (beneficial owner of SUDCARGO) and all co-insurers on the professional civil liability policy no. 830260. This case was referred to CESAM in 2014 by AGCS, the lead insurer on this policy, for the identification of all co-insurance and follow up of this case including the remaining provisions pending at that date⁶.

An amicable agreement was finally reached with CMA CGM to definitively close all claims relating to this policy. As part of this agreement, CESAM distributed the amounts due under this amicable agreement among all the co-insurers on this policy. These payments were made upon receipt of the full amount by CMA CGM in early 2019.

2.2 BENEFIT OF POOLING RESOURCES

As every year, we would like to reiterate the importance of CESAM’s pooling of the management and follow-up of major casualties cases. This makes it possible to pool the costs of managing these cases while carrying more weight during the various amicable negotiations and procedures encountered in this type of casualty.

2.3 RESOURCES PUT IN PLACE FOR MANAGING CASES

2.3.1 Set up of CESAM guarantees

In 2018, CESAM issued several guarantees on behalf of various cargo insurers, whether as part of general average proceedings or assistance proceedings.

This service has been particularly requested in the context of the management of the MAERSK HONAM⁷ case and more particularly on behalf of Moroccan and Algerian cargo insurers. The Algerian and Moroccan markets have been particularly affected by this casualty. FMSAR⁸ has therefore decided to refer a large number of cargo cases to CESAM⁹. The SCOR reinsurer of an Algerian cargo insurer has also referred a subcase representing approximately USD 10 million in goods value to CESAM.

⁴ Recovery of sums compensated by transport insurers following the theft of a Picasso painting in 1979.

⁵ Casualty of 26.08.1994: OTRANTO collision in Italy following breakage of moorings.

⁶ For the years 1983 to 2000.

⁷ A fire occurred on 06/03/2018 in the Indian Ocean.

⁸ Moroccan Federation of Insurance and Reinsurance Companies.

⁹ 23 sub-cases representing, in total, approximately USD 1.5 million in goods value.

Finally, other Algerian cargo insurers have entrusted the management of their cargo interests to CESAM for an amount of around USD 1 million. However, as we have already indicated in our previous annual reports, the companies in charge of assistance operations¹⁰ only accept guarantees from insurance companies with their registered office in Europe and a Standard & Poor's minimum rating of "A -".

All the above-mentioned companies, however, did not meet these criteria.

To resolve this situation, Smit Salvage has therefore accepted since 2016 that CESAM issue guarantees on behalf of these companies. Here, in the MAERSK HONAM case, more than 40 assistance guarantees were issued.

As a reminder, in order to issue such a CESAM guarantee, the Major Casualties Department retain the sums corresponding to the provisional contribution rate for general average and/or assistance on an interest-bearing blocked bank account. If this rate changes, the blocked amounts will be readjusted according to this change. Upon final payment of contributions and/or assistance operations, unless otherwise specified by the company concerned, these blocked funds will be used to pay the said contributions. The balance and interest will then be returned to the company.

2.3.2 Access to Lloyd's List

In 2018, CESAM once again renewed its subscription to the "Lloyd's List Intelligence" database to inform CESAM members of any marine casualty, but also to trace the movements of a vessel, its technical characteristics, its owners, the controls and/or sanctions that have been taken by the various competent authorities against a vessel as well as to obtain certain information relating to ports and their infrastructures.

In addition, following the update of the Lloyd's List Intelligence website, alerts can be set up to indicate the presence of a specific unit in a given geographical area or to identify any unit entering a given geographical area.

CESAM members can therefore request the intervention of the Major Casualties Department for any search on this database. This service will be invoiced at € 50 exclusive of VAT insofar as it is limited to sending the requested data and location. Time-based pricing will be applied if the service is more complex.

2.3.3 Access to LAMYLINE database

Subscription to the LAMYLINE database was also renewed for the year 2018. This legislative, jurisprudential and doctrinal database¹¹ allows searches to be carried out for member companies with a long history. For this service, the Major Casualties Department will apply an hourly rate.

2.3.4 Filing of closed cases

In 2018 and after the extensive filing operation carried out in 2017, the Major Casualties Department did not file any closed cases. This operation will undoubtedly be carried out in 2019.

¹⁰ In this case Smit Salvage (Dutch company).

¹¹ Lamy insurance (since 1997), Bulletin des Transports (since 1996) and Droit Maritime Français (since 1990).

2.4 PUBLICATION OF NEWS AND OTHER INFORMATION

In 2018, the Major Casualties Department issued 12 news items and information notices. For the record, the news file contains more than 450 recipients¹².

Issue date	Subject	Recipients
05.10.2018	"APL LOS ANGELES" - grounding on 22 September 2018	News file
04.10.2018	"WAN HAI 02" - grounding on 30 August 2018	News file
09.07.2018	Hurricane BERYL (West Indies) - NEWS No.2	News file
27.09.2018	Tropical Storm KIRK (West Indies)	News file
06.07.2018	Hurricane BERYL (West Indies) - NEWS No.1	News file
29.06.2018	"MAERSK HONAM" - fire on 6 March 2018 - NEWS No. 7	News file
29.05.2018	"MAERSK HONAM" - fire on 6 March 2018 - NEWS No. 6	News file
25.04.2018	"MAERSK HONAM" - fire on 6 March 2018 - NEWS No. 5	News file
09.04.2018	"MAERSK HONAM" - fire on 6 March 2018 - NEWS No. 4	News file
14.03.2018	"MAERSK HONAM" - fire on 6 March 2018 - NEWS No. 3	News file
08.03.2018	"MAERSK HONAM" - fire on 6 March 2018 - NEWS No.2	News file
07.03.2018	"MAERSK HONAM" - fire on 6 March 2018 - NEWS No. 1	News file

¹² To comply with the GDPR, CESAM has added a note at the bottom of all "NEWS" items with multiple recipients.

3. GOALS AND DEVELOPMENTS FOR 2019

3.1 PROGRESS OF REFERRED CASES

For several years now, the Major Casualties Unit has been offering member companies extensive support for all types of major claims and no longer confines itself solely to cases of general average and/or assistance declaration. With this in mind, the Major Casualties Department can therefore intervene in cases where there is no declaration of general average or assistance but where the interests of several member companies are involved (collision, grounding, major climatic event, etc.).

As mentioned above, requests to manage and issue guarantees on behalf of foreign markets whose guarantees are systematically refused by dispatchers and/or companies in charge of assistance operations will undoubtedly become more and more frequent.

Finally, it should be noted that, as usual, the Major Casualties Department continues to be contacted directly by policyholders, owners of goods or various intermediaries in the transport chain to find out about the progress of certain casualties. CESAM will always respond favourably to these requests for information to the extent of the information available to it.

3.2 RATING COUNTRIES AT RISK OF WAR

Following the cessation of rating countries at risk of war by the CCR (Caisse Centrale de Réassurance in French or Central Reinsurance Fund), the Board of Directors has entrusted CESAM with the follow up of this rating as of 1 September 2018. As requested by the Board, on that date, the areas rated by the CCR, for both waterborne and extended warranty risks, received the same ratings as those of the CCR as at 31 August 2018. Unless there is a new serious situation, these ratings were not be amended until 1 April 2019.

After this date, ratings and areas may be reviewed on a quarterly basis. If a new situation should require the rating of an area to be increased, an exceptional update may be decided. These exceptional updates will also systematically be the subject of “News” items distributed to more than 450 recipients.

In the event of a change, the history of the ratings is kept on the CESAM website with an end date for the previous rating, a start date for the new rating and, if necessary, an explanatory note on the change¹³. The number of visits to the CESAM website page reserved for this rating is evaluated each month¹⁴.

3.3 ANALYSIS OF GENERAL AVERAGE SETTLEMENTS

Substantive work will begin in 2019 to thoroughly analyse the latest general average settlements received at CESAM.

As CESAM has been involved in the majority of general average cases that have affected the French market in recent years, it seems interesting to carry out an in-depth analysis of the eligible general average costs and expenses. The objective of this work will be to determine and measure the eligible general average costs by origin of expenditure and other costs related to the management of marine casualties¹⁵.

3.4 MONITORING OF LOF DEVELOPMENTS

CESAM is sporadically kept informed of ongoing discussions to reform the LOF contract currently in progress in LONDON. Discussions on this subject are reported in a general and informal manner through the IUMI SALVAGE FORUM.

In 2019, the Chambre Arbitrale Maritime de Paris launched a review of the Villeneuve assistance contract in order to be more attractive to the French market. This contract will mainly be used for pleasure craft risk but may also be useful for cabotage of goods in French territorial waters.

¹³ <http://www.cesam.org/fr/notation/index.php>

¹⁴ Visits in September 2018, 98 in October, 157 in November and 152 in December.

¹⁵ For the record : Study type 2000 AAA Miles DUNCAN IUA IUA Publication

Categories SALVAGE-FUEL-WAGES- INTEREST & COMMISSIONS-ADJUSTMENT FEES &EXPENSES-CARGO EXPENSES-CARGO SACRIFICES-PORTS CHARGES-SURVEY-SHIP SACRIFICES

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