



US Law Considerations

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WHO IS RESPONSIBLE?

Detention &
Demurrage
Charges



Impact on US Ports & Cargo Operations



- Covid - 19
Pandemic

- Ongoing War
in Ukraine



CERTIFICATES
OF
COMPLIANCE



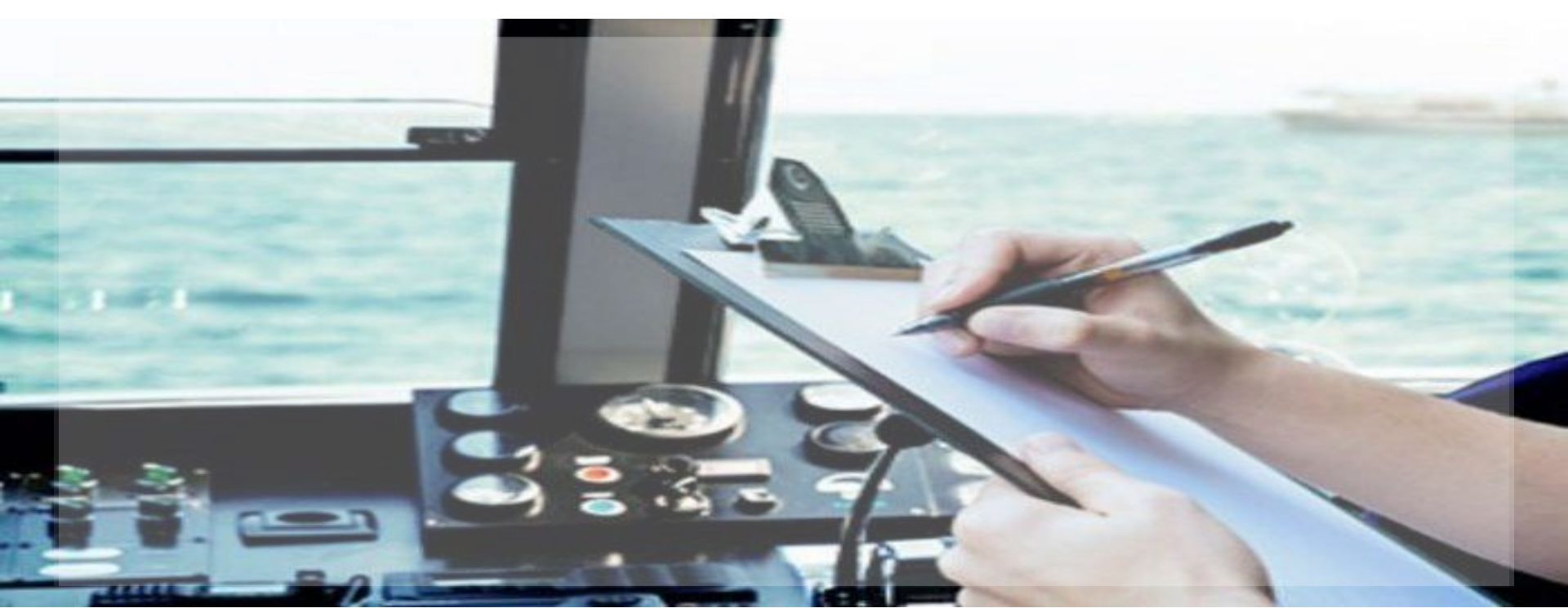
COAST GUARD

MARITIME SECURITY RESPONSE TEAM

CERTIFICATES OF COMPLIANCE

- Vessels thoroughly inspected to conform with US regulations for oil cargo
- Issued by US Coast Guard
- Complete plan review
- Plans to local Officer in Charge, Marine Inspection (OSMI)





COC'S CONTINUED

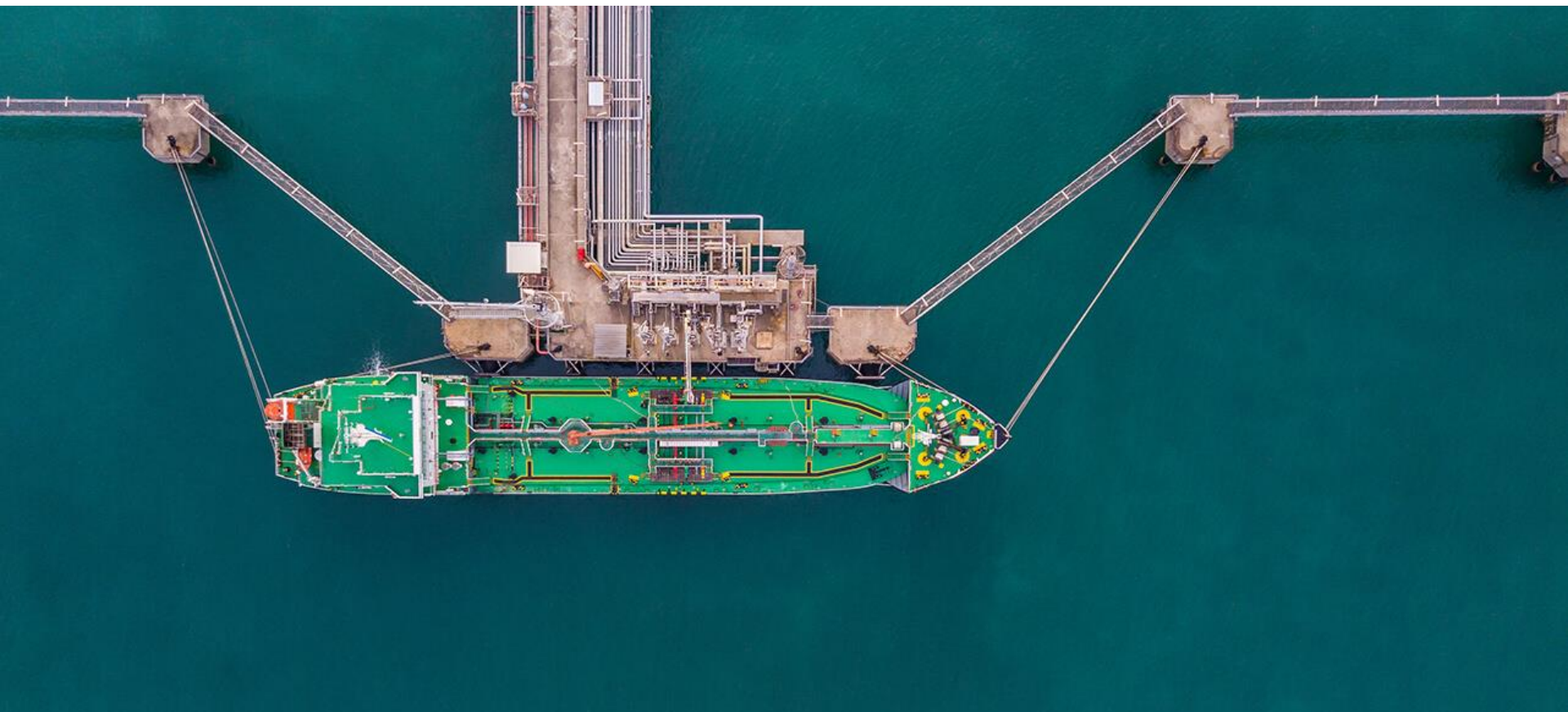
- By Master, Vessel Owner or Agent to OCMI in Marine Inspection Zone
- New vessels or foreign - built vessels
- Federal document
- Inspection covers every US port and territory
- Irrelevant where physical inspection conducted



EFFECT OF EXPIRED COC

- NOR not effective
- Prerequisite for commencement of laytime
- Time prior to valid COC will not count as demurrage
- Master may only render NOR on receipt of valid COC

PUBLIC DOCKS





PUBLIC DOCK CLAUSES

- By negotiation
- “Where parties agree loading will occur at public terminal over which seller has no control”. Vessels to be loaded on “first come first served” basis, subject to dock availability
- Laytime will not commence until vessel is “all fast” at dock
- Seller not responsible for any delays or demurrage while waiting for berth
- LEAP (Leadership for Energy Automated Processing) list

WHEN IS A DOCK CONSIDERED A PUBLIC DOCK?

- Operated by government authority or private 3rd party
- "First come, first served" basis
- Terminal has no interest in cargo
- Two or more companies have inventory at terminal
- Terminal operator not in business of buying or selling oil

FORCE MAJEURE

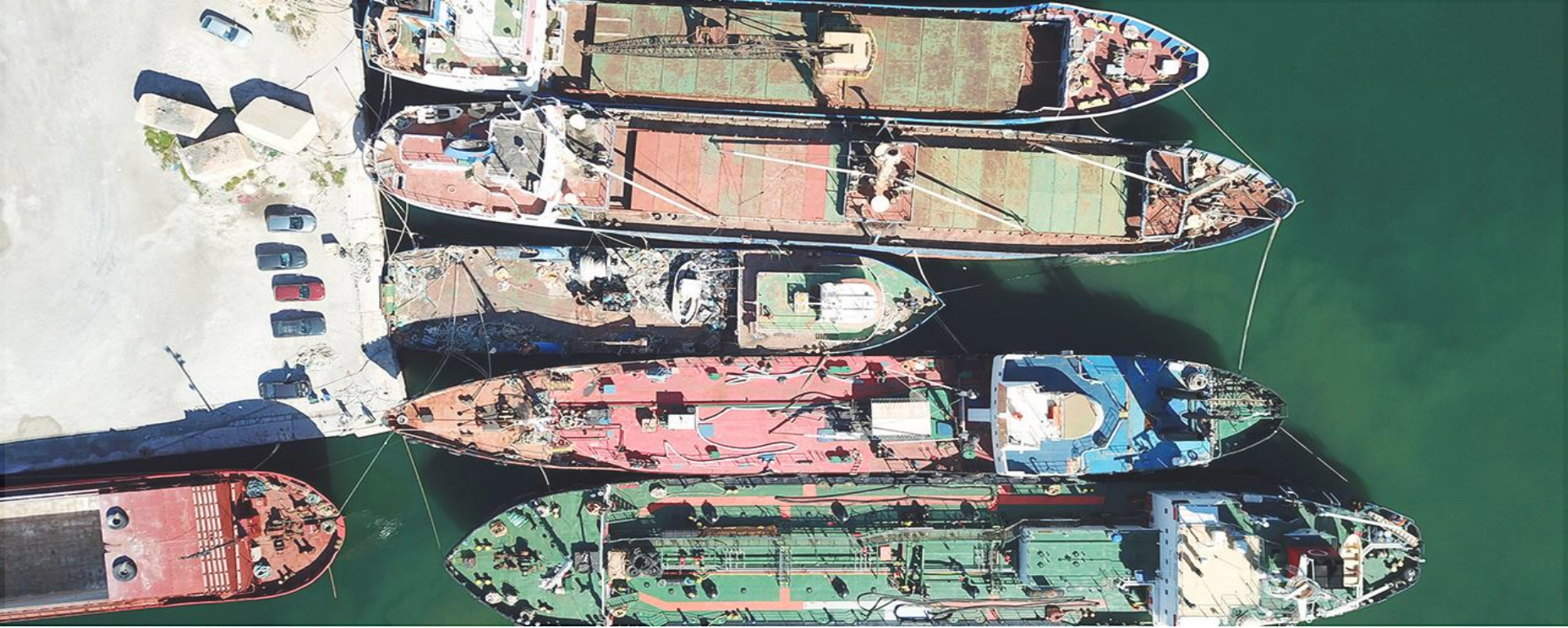
Unforeseeable circumstance

Prevents party (or parties) from fulfilling contract



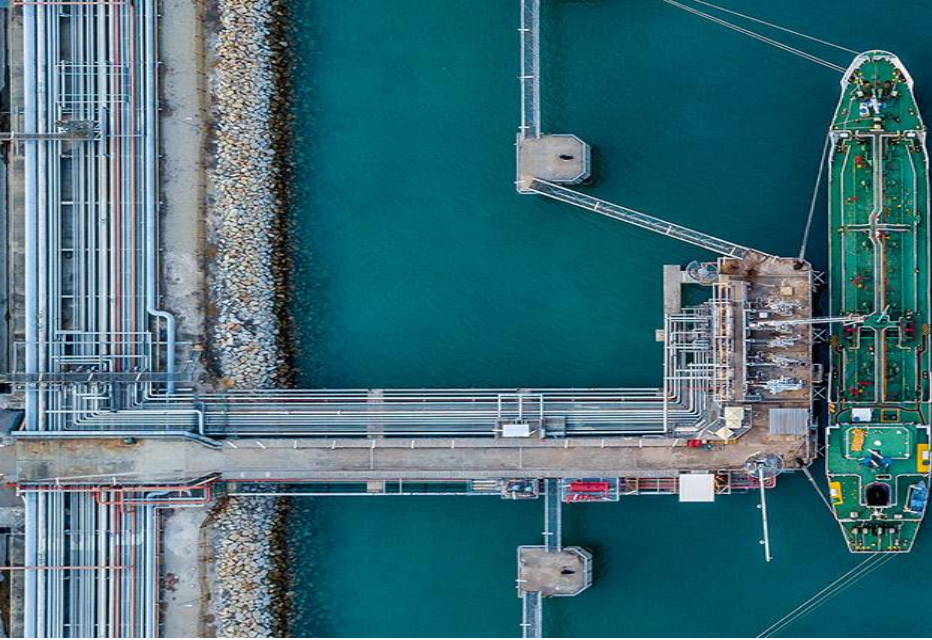
TRIGGERING EVENT MUST BE:

1. Extraordinary
2. Entirely fortuitous
3. Prevents performance



US LAW CONCEPTS

- FM clauses often contain “heavy weather” and “perils of the sea”
- Was event sufficiently likely?
- Event must have been unforeseeable
- Caused by external force / unavoidable



Toyomenka Pacific Petro V. Hess Oil (1991)

- Toyomenka sued Hess for demurrage due to delay in taking delivery of cargo
- Hess owned oil refinery on St. Croix
- Contract governed by NY law
- Hurricane Hugo damaged refinery and terminal
- Hess gave notice of FM, but Toyomenka still expected Hess to pay demurrage
- FM clause extended for 30 days but was only delayed by 12 days

An aerial night-time photograph of an offshore oil rig and several support vessels. The rig is illuminated with warm yellow lights, showing its complex structure of steel beams and platforms. A large yellow circular logo with the word "only" is visible on the rig's deck. The surrounding water is dark, and the sky is a deep blue.

HESS LESSONS

1. Make sure FM clause is clear, unambiguous and far-reaching (kitchen sink)
2. Give prompt notice of FM event
3. Party relying on FM clause has burden of proof
4. Act with speed and diligence

QUESTIONS
OR
COMMENTS ?

