



# **MOOT PROBLEM**

MMCS INTERNATIONAL MARITIME ARBITRATION  
COMPETITION 2026 ("MIMAC 2026")

10 April 2026

*Co-Authors of the Moot Problem*  
William Patrick McPhilamy, III & Harshal Babarao Bhale

## PART A: ARBITRATION BUNDLE - CASE FILE INDEX

The following documents form part of the arbitration bundle relating to the collision between "MV AURORA" and "MV BOREALIS" on 12th March 2017 in the Gulf of Oman.

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**Note:** Participants may rely upon these documents in support of their submissions. Unless otherwise indicated, the authenticity of the documents is not in dispute. However, the parties may dispute interpretation and legal significance of certain records contained therein.

## PART B: FACTUAL BACKGROUND

### Parties

**WPM & Co.** (Owner of MV AURORA) ..... **Claimant**

**Vs.**

**HBB & Co** (Owner of MV BOREALIS) ..... **Respondent**

### Parties Arrangements and Vessel Details

1. The Claimant, WPM & Co, is a shipping company incorporated under the laws of Liberia and the registered owner of the bulk carrier MV AURORA, flying the Liberian flag. The vessel was under a bareboat (demise) charter to XYZ & Co. However, the Claimant remained the registered owner of the vessel.
2. The Respondent, HBB & Co, is a shipping company incorporated under the laws of Greece and the registered owner of the container vessel MV BOREALIS, flying the Panamanian flag. The vessel was under a time charter to ABC & Co. for liner trade between the Middle East and Europe. However, the Respondent remained the registered owner of the vessel.
3. Both parties operate vessels engaged in international maritime trade.

### Voyage Details

4. On 12th March 2017, MV AURORA departed Port Khalifa bound for Malé carrying iron ore. On the same day, MV BOREALIS departed Jebel Ali bound for Piraeus carrying containerised cargo.
5. Both vessels proceeded through the Gulf of Oman, an internationally recognised high-traffic maritime route.

## Navigational Situation

6. At approximately 23:20 hours on 12th March 2017, both vessels detected each other on radar and AIS at a distance of approximately 9 nautical miles.
7. At the material time, MV AURORA was proceeding on a south-easterly course of approximately 140° at a speed of 14 knots, and MV BOREALIS was proceeding on a north-westerly course of approximately 305° at a speed of 16 knots.
8. As a result of these courses, the vessels approached on intersecting tracks. Radar plotting conducted aboard MV AURORA indicated a potential crossing situation with MV BOREALIS approaching from the starboard side.
9. Radar plotting conducted on MV AURORA indicated that the Closest Point of Approach between the vessels was reducing and was estimated at approximately 0.2 nautical miles.
10. However, the officer on watch aboard MV BOREALIS later stated that the approaching vessel initially appeared to be maintaining a safe passing distance based on visual observation.

## Chronology of Events

11. Based on navigational records contained in the arbitration bundle, the following sequence of events, which occurred on 12th March 2017, has been reconstructed:

<b>Time</b>	<b>Event</b>
7:00	MV AURORA departs Port Khalifa bound for Malé
11:30	MV BOREALIS departs Jebel Ali bound for Piraeus
21:30	Both vessels navigating through central Gulf of Oman
23:20	Vessels detected each other on radar and AIS (approx. 9 NM)
23:25	Radar plotting indicates decreasing CPA
23:28	CPA estimated at approx. 0.2 NM
23:30	Both vessels maintain course
23:33-23:38	Course alteration reportedly undertaken by MV AURORA

23:35	VHF communication initiated
23:41	Distance between vessels significantly reduced
23:44	Emergency manoeuvres reportedly undertaken
23:45	Collision occurs

**Note:** The parties rely on the navigational documents contained in the arbitration bundle to support their respective positions.

## The Collision

12. On 12 March 2017, at 23:45 hours, the bow of MV BOREALIS made contact with the port side of MV AURORA.

13. The collision resulted in the following:

- structural damage to both vessels
- damage to containers aboard MV BOREALIS
- rupture of a bunker tank on MV AURORA and approximately 45 tonnes of fuel oil escaped into surrounding waters.

14. Emergency response operations were undertaken by coastal authorities and the spill was subsequently contained. No casualties were reported.

## Claims Arising from the Collision

15. The Claimant puts a claim of USD 6.4 M on the Respondent, and in response the Respondent puts a claim of USD 10 M on the Claimant.

## Post-Collision Arrangements

16. In order to avoid proceedings in multiple jurisdictions, the parties entered into a Collision Jurisdiction Agreement in the standard ASG-2 form, which was executed by the registered owners of both vessels.

## Security for Claims

17. Following the execution of the ASG-2 agreement, the Respondent provided security for the Claimant's claim in the amount of USD 6.4 M by way of a P&I Club Letter of Undertaking, which the Claimant duly accepted without any objection.
18. The Claimant subsequently offered security for the Respondent's claims in the amount of USD 8 M by way of a P&I Club Letter of Undertaking.
19. The Respondent declined to accept the security offered stating that it is not reasonably satisfactory. The Respondent subsequently initiated steps to arrest MV POLARIS, alleged to be a sister ship of MV AURORA, before the courts of Malé, Maldives in order to obtain security for its claims. MV POLARIS was scheduled to call Malé in April 2017 for cargo operations.
20. The Claimant disputes the propriety of such action, and argues that the security reflects reasonable estimate of liability, especially if collision is shared fault.

## **PART C: ARBITRATION**

21. The dispute has been referred to arbitration in London pursuant to the arbitration clause contained in the ASG-2 Collision Jurisdiction Agreement.
22. Following issues are presented for Determination before the Arbitration Tribunal:
  - A. Whether the arbitral tribunal has jurisdiction to determine the present dispute pursuant to the arbitration clause contained in the ASG-2 Collision Jurisdiction Agreement.
  - B. Whether the Respondent was entitled to reject the security offered by the Claimant and initiate vessel arrest proceedings notwithstanding the obligations contained in Clause C of the ASG-2 Collision Jurisdiction Agreement.

- C. Whether the Respondent's claims properly lie against the registered owner of MV AURORA or against the bareboat charterer operating the vessel at the time of the collision.
- D. Whether, having regard to the applicable provisions of the COLREG Convention and the navigational conduct of the vessels, liability for the collision should be apportioned between MV AURORA and MV BOREALIS, and if so, in what proportion.

## **PART D: PARTIES' CONTENTIONS**

### Claimant's Contentions

- 23. The Claimant's position is that the dispute falls within the scope of the ASG-2 Collision Jurisdiction Agreement, which is binding on the registered owners of the vessel, irrespective of the vessel being under a bareboat charter, and that the Tribunal derives jurisdiction therefrom. It is further indicated that the Respondent has engaged with the framework of the said agreement.
- 24. The Claimant's position is that the Letter of Undertaking issued by its P&I Club constitutes reasonably satisfactory security within the meaning of Clause C of the ASG Agreement. The parties are at variance as to whether differences in wording affect the adequacy of such security and whether the refusal to accept the same was justified.
- 25. The Claimant has taken the position that the Respondent's attempt to pursue the arrest of a sister vessel, including MV POLARIS, is inconsistent with the obligations arising under the ASG framework in circumstances where security had been offered, and contends that that the Respondent's conduct amounts to a repudiatory breach. The parties dispute whether such conduct amounts to a breach of the agreement.
- 26. The Claimant's case proceeds on the basis that the collision occurred in a crossing situation within the meaning of Rule 15 of the COLREG Convention. Issues arise as to whether adequate lookout was maintained and whether timely and effective action was taken to avoid the collision

by the Respondent. The Claimant contends that the liability should be apportioned predominantly against the Respondent, at not less than 70:30.

## Respondent's Contentions

27. The Respondent's position is that the scope and applicability of the ASG-2 Collision Jurisdiction Agreement is limited and may not extend to all aspects of the present dispute. Questions arise as to its applicability to non-signatory parties, including the bareboat charterer, and certain claims fall outside the scope of the ASG framework, particularly those linked to independent rights in rem.
28. The Respondent does not accept that the security offered by the Claimant was reasonably satisfactory within the meaning of Clause C. The parties disagree as to the adequacy of both the quantum and wording of the Letter of Undertaking, including whether it sufficiently covers the Respondent's potential claims.
29. The Respondent maintains that it was entitled to seek security through the arrest of a sister vessel, in circumstances where the offered security was considered insufficient. The parties are in dispute as to whether such recourse is consistent with the ASG framework.
30. The Respondent's case proceeds on the basis that the navigation of the Claimant's vessel raises issues as to speed, timing of manoeuvres, and adequacy of avoiding action, within the meaning of Rule 6 of the COLREG Convention. The give-way vessel failed to take early and substantial action. The Respondent contends that should be apportioned predominantly against the Claimant, at not less than 60:40.

## Exhibit A - Bareboat Charterparty - MV AURORA (Fixture Recap)

### **BAREBOAT CHARTER FIXTURE RECAP 20/06/2016 (Subject to BARECON 2001)**

**VESSEL:** MV *AURORA*

**TYPE:** Bulk Carrier

**FLAG:** Liberia

**BUILT:** 2012

**DWT:** 76,500 MT

**1. OWNERS:** WPM & Co., Liberia

**2. CHARTERERS (BAREBOAT / DEMISE):** XYZ & Co, UAE

#### **3. DELIVERY**

Place: Port Khalifa, UAE

Date: 01 June 2016

Time: 1000 hrs (LT)

Condition: In class, free of cargo, clean holds

#### **4. CHARTER PERIOD**

Minimum: 24 months

Maximum: 30 months

Charterers' option to redeliver with 30 days' prior notice

#### **5. HIRE**

USD 40,000.00 per day pro rata

Payable monthly in advance

First payment due upon delivery

#### **6. TRADING LIMITS**

Worldwide trading, always within Institute Warranty Limits

Excluding sanctioned / war zones unless mutually agreed

#### **7. CLASS & MAINTENANCE**

Vessel to remain in class at all times

Charterers responsible for: Technical management, Crew & Maintenance and repairs

#### **8. CREW & MANAGEMENT**

Full crew to be appointed by Charterers

Master and officers under Charterers' employment  
Charterers to act as disponent owners during charter period

## **9. INSURANCE**

Hull & Machinery (H&M): For Charterers' account  
Protection & Indemnity (P&I): For Charterers' account  
Owners to be named as co-assureds  
Charterers to provide evidence of cover upon delivery

## **10. INDEMNITY**

Charterers to indemnify Owners against: All liabilities arising from operation of the vessel & Third-party claims during charter period

## **11. PURCHASE OPTION**

Charterers have option to purchase vessel at USD 18,000,000.00  
Exercisable only after 18 months

## **12. RE-Delivery**

Place: Worldwide, safe port  
Condition: Same as delivery, fair wear and tear excepted

## **13. APPLICABLE FORM**

This fixture is subject to BARECON 2001 (as amended)

## **14. LAW & JURISDICTION**

Law: English Law  
Arbitration: London Maritime Arbitrators Association (LMAA)

## **15. IMPORTANT LEGAL STATUS**

During the charter period, the Charterers shall have full possession and control of the Vessel, and Charterers shall be regarded as Owners pro hac vice. Owners shall not be responsible for Navigation, Operation & Crew conduct.

## **16. SECURITY / CLAIMS**

Charterers responsible for handling all claims arising during charter period  
Owners retain title to the vessel at all times  
Nothing in this agreement shall prejudice the owners' proprietary rights and third-party rights in rem

## **17. SUBJECTS**

Subject to:

- Board approval
- Charterers' management approval
- Signing of full BARECON 2001 form

### **18. Governing Terms**

This fixture recap is subject to and incorporates BIMCO BARECON 2001, including all standard clauses, except as expressly amended herein. In case of any conflict, this recap shall prevail.

**Agreed and accepted:**

For Owners: *WPM @ CO*

For Charterers: *XYZ @ CO*

## Exhibit B - AIS Navigation Data Extract

AIS Navigation Data Extract				
Time (UTC+4)	Vessel	Course (°T)	Speed (knots)	Distance Between Vessels
23:20	<b>MV AURORA</b>	315°	14	9.0 NM
23:20	<b>MV BOREALIS</b>	045°	16	9.0 NM
23:28	MV AURORA	315°	14	6.8 NM
23:28	MV BOREALIS	045°	16.5	6.8 NM
23:33	MV AURORA	325°	14	4.5 NM
23:38	MV AURORA	325°	14	3.0 NM
23:41	MV BOREALIS	040°	15.5	1.8 NM
23:44	Both vessels manoeuvring	—	—	0.6 NM
23:45	<b>Collision</b>	—	—	0

## Exhibit C - Bridge Logbook Extract - MV AURORA

**Date:** 12 March 2017

**Time Zone:** UTC +4

**Position:** Gulf of Oman

**Watch:** 2000–0000 hrs

**Officer of the Watch:** 2/O Mr. George Steve

**Weather:** Visibility good (~8–10 NM), slight sea, wind NE F3

### BRIDGE LOG ENTRIES (MANUAL RECORD)

Time	Course (°T)	Speed (kn)	Entry
23:20	315°	14	Proceeding on passage. Radar contact detected on port bow at approx. 9 NM. Target later identified on AIS as MV <i>BOREALIS</i> .
23:28	315°	14	Target tracked. Bearing appears steady. No immediate risk assessed.
23:33	325°	14	Altered course 10° to starboard for traffic. Target remains on port side.
23:38	325°	14	Visual contact established. Distance decreasing. Situation monitored.
23:41	325°	14	Target vessel observed at close range. Risk of collision considered. Master informed.
23:43	325°	14	Master on bridge. Engines kept ready.
23:44	—	—	Both vessels manoeuvring. Helm action taken (starboard). Distance closing rapidly.
23:45	—	—	<b>Collision with MV <i>BOREALIS</i>.</b>

### POST-INCIDENT ENTRIES

Time	Entry
23:47	Engines stopped. General alarm sounded.
23:50	VHF communication established with MV <i>BOREALIS</i> .
23:55	Damage assessment initiated.

## Exhibit D – Bridge Logbook Extract – MV BOREALIS

**Date:** 12 March 2017

**Time Zone:** UTC +4

**Position:** Gulf of Oman

**Watch:** 2000–0000 hrs

**Officer of the Watch:** 2/O Samuel Stock

**Weather:** Good visibility (~8–10 NM), slight sea, wind NE F3

### BRIDGE LOG ENTRIES (MANUAL RECORD)

Time	Course (°T)	Speed (kn)	Entry
23:20	045°	16	Proceeding on passage. Target vessel detected on starboard bow at approx. 9 NM. AIS identifies vessel as <i>MV AURORA</i> .
23:28	045°	16.5	Target tracked. Bearing indicates crossing situation. Own vessel maintaining course and speed.
23:33	045°	16.5	Target vessel observed altering course to starboard. Distance decreasing.
23:38	045°	16	Visual contact established. Target remains on starboard side. No avoiding action observed from target vessel.
23:41	040°	15.5	Close-quarters situation developing. Slight alteration of course to port. Master informed.
23:43	040°	15.5	Master on bridge. Engines on standby. Situation monitored.
23:44	—	—	Both vessels manoeuvring. Emergency action taken.
23:45	—	—	<b>Collision with <i>MV AURORA</i>.</b>

### POST-INCIDENT ENTRIES

Time	Entry
23:47	Engines stopped. General alarm sounded.
23:50	VHF communication established with <i>MV AURORA</i> .
23:55	Damage assessment initiated.

## Exhibit E - Statement of Second Officer - MV AURORA

**Date of Statement:** 14 March 2017

**Name:** Mr. George Steve

**Rank:** Second Officer (Officer of the Watch)

**Vessel:** MV *AURORA*

*Statement recorded as part of internal investigation.*

### STATEMENT

At approximately 23:20 hours, a radar target was observed on the port bow at a distance of about 9 nautical miles, which was later identified as MV *BOREALIS*. The vessel was tracked on radar, and at that time no immediate concern was noted.

At or about 23:30–23:35 hours, the target remained visible on radar and subsequently by visual sighting. The bearing appeared generally steady, and I continued to monitor the situation.

At approximately 23:33 hours, I altered course slightly to starboard. This alteration was made as part of routine navigation in traffic and with the intention of increasing passing distance.

As the vessels continued to close, I formed the view that the situation might develop into close quarters. At around 23:40 hours, I informed the Master and requested his presence on the bridge.

Prior to the Master's arrival, I considered that the alteration already made would contribute to a safe passing distance. However, the distance between the vessels reduced more rapidly than anticipated.

Shortly before the collision, further helm action was taken on the Master's instructions.

### DECLARATION

This statement is made to the best of my knowledge and recollection and reflects my understanding of events at the relevant time.

*George Steve*

**Signed**

2/O Mr. George Steve

## Exhibit F - VHF Communication Transcript between the vessels

**Date:** 12 March 2017      **Time Zone:** UTC +4      **Area:** Gulf of Oman  
**Channel:** VHF Channel 16 (Initial Contact), working channel not recorded  
**Source:** Extract from vessel communication records (as maintained onboard)

### TRANSCRIPT OF COMMUNICATION

**23:35 – MV BOREALIS**

“MV AURORA, MV AURORA, this is MV BOREALIS on Channel 16. Over.”

**23:35 – MV AURORA**

“MV BOREALIS, this is MV AURORA. Receiving you. Go ahead.”

**23:36 – MV BOREALIS**

“Your vessel is on my starboard side. What are your intentions? Over.”

**23:36 – MV AURORA**

“Maintaining present course and speed. Monitoring the situation. Over.”

**23:38 – MV BOREALIS**

“CPA appears to be reducing. Request you confirm your manoeuvre. Over.”

**23:39 – MV AURORA**

“Negative alteration at present. Will keep you advised. Over.”

**23:41 – MV BOREALIS**

“Distance now close. Request immediate action to avoid close-quarters situation. Over.”

**23:41 – MV AURORA**

“Understood. Action will be taken. Stand by. Over.”

**23:43 – MV BOREALIS**

“Your intentions unclear. We are altering course. Over.”

**23:43 – MV AURORA**

“Altering course to starboard. Over.”

**23:44 – MV BOREALIS**

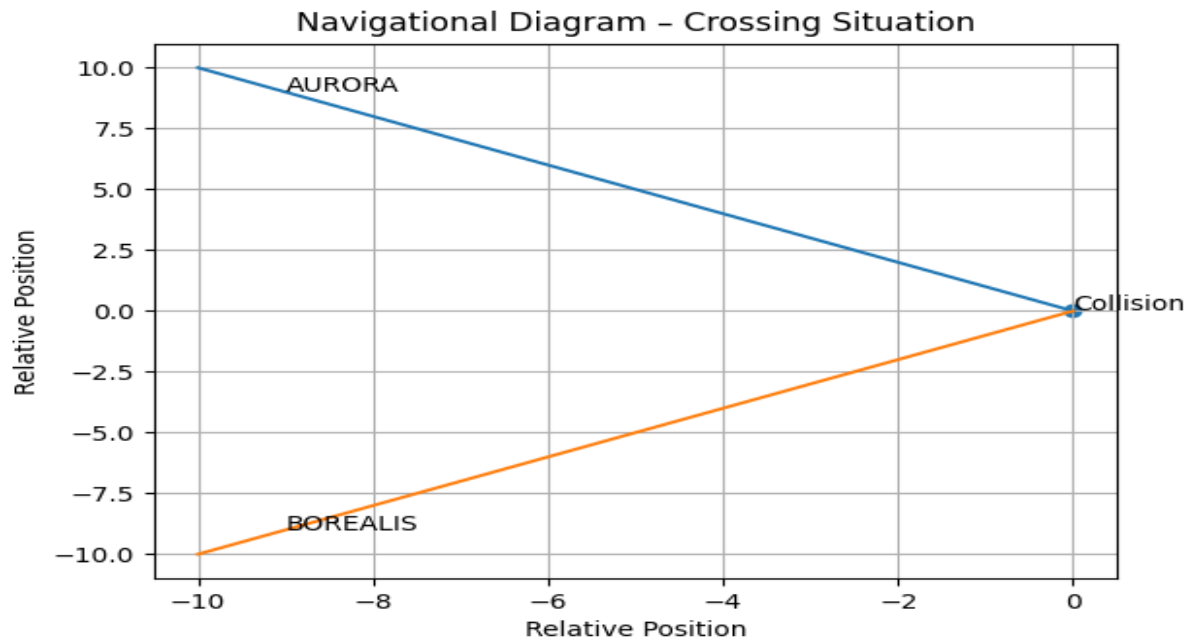
“Altering course to port. Over.”

**23:45 – [No further intelligible communication recorded]**

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*NOTE: VHF communication between the vessels was initiated when the distance between the vessels had reduced to approximately 3 nautical miles. Transcript reflects recorded extracts and may not represent complete or continuous communication.*

Exhibit G - Navigational Diagrams (Not to scale)



## Exhibit H - Independent Marine Surveyor's Damage Assessment Report

**Vessels:** MV *AURORA* / MV *BOREALIS*

**Date of Casualty:** 12 March 2017

**Location:** Gulf of Oman

**Date of Survey:** 13–15 March 2017

**Surveyor:** Capt. J. Henderson, Master Mariner & Accredited Marine Surveyor

**Appointed by:** Joint instruction of interested parties

### 1. PURPOSE OF REPORT

This report has been prepared to document the nature and extent of physical damage sustained by the vessels MV *AURORA* and MV *BOREALIS* following the collision on 12 March 2017, and to provide an assessment of the likely repair scope and associated costs.

### 2. SUMMARY OF FINDINGS

Both vessels sustained structural hull damage consistent with a contact incident at moderate speed. Damage patterns indicate a single point of impact followed by limited longitudinal contact. No evidence of structural failure affecting the overall seaworthiness of either vessel was observed at the time of survey.

### 3. DAMAGE TO MV *AURORA*

**Location:** Port side, midship section (approx. Frame 78–92)

**Nature of Damage:**

- Indentation of shell plating
- Localised buckling of frames and stiffeners
- Abrasion marks consistent with contact by a forward structure

**Extent:**

- Affected area approx. 8–10 metres longitudinally
- No immediate evidence of cargo hold breach, though ballast tank integrity requires further inspection

### 4. DAMAGE TO MV *BOREALIS*

**Location:** Forward section (bow area, starboard side)

**Nature of Damage:**

- Deformation of bow plating
- Structural stress marks along stem and adjacent shell plating
- Paint transfer consistent with contact against another vessel's hull

**Extent:**

- Damage concentrated at the forward-most section
- No evidence of significant water ingress at time of inspection

### 5. ANGLE AND MECHANICS OF IMPACT

Based on physical damage patterns, deformation characteristics, and alignment of contact marks:

*“The impact is assessed to have occurred at an angle of approximately 30–35 degrees, with the forward section (bow) of MV BOREALIS making contact with the port mid-section of MV AURORA.”*

The nature of damage suggests that:

- Both vessels were under way at the time of impact, and
- There was no indication of a glancing or parallel contact, but rather a crossing-type interaction.

## 6. ESTIMATED REPAIR COSTS

*(All figures are indicative and subject to detailed yard quotations)*

Vessel	Estimated Repair Cost (USD)
MV AURORA	USD 3.5 – 4.0 million
MV BOREALIS	USD 5.0 – 5.5 million

## 7. OBSERVATIONS

The damage profile is consistent with a crossing situation, though no determination is made as to navigational responsibility.

The absence of extensive scraping suggests limited evasive action prior to impact, though this cannot be conclusively determined.

Final conclusions on causation require consideration of navigational data, bridge records, and witness accounts.

## 8. LIMITATIONS

This report is based on:

- Visual inspection
- Photographic evidence
- Preliminary measurements

No intrusive structural testing was carried out at this stage.

## 9. DECLARATION

This report is prepared independently and reflects the surveyor’s professional assessment based on the information available at the time of inspection.

*Capt. J. Henderson*

**Signed**

Capt. J. Henderson

Master Mariner & Marine Surveyor

## Exhibit I – Coastal Authority Pollution Response Report

**Issuing Authority:** Directorate of Coastal and Marine Environmental Protection

**State:** Sultanate of Oman

**Incident Reference No.:** DMEP/2017/0312-A

**Date of Issue:** 18 March 2017

### 1. INCIDENT OVERVIEW

On 12 March 2017 at approximately 23:45 hours (UTC +4), a collision occurred between MV *AURORA* and MV *BOREALIS* in the Gulf of Oman.

Following the incident, a limited discharge of bunker fuel oil was reported in the vicinity of the collision.

### 2. SOURCE AND NATURE OF POLLUTION

- **Source:** Suspected breach to ballast/bunker tank structure of MV *AURORA* (port midship region)
- **Type of Oil:** Intermediate Fuel Oil (IFO) / Marine Fuel Oil
- **Estimated Quantity Discharged:** Approx. 25–40 metric tonnes (initial assessment)

The discharge was observed as a localized surface slick, extending intermittently over an area of approximately 1.5–2 nautical miles.

### 3. CONTAINMENT OPERATIONS

Response measures were initiated by coastal authorities in coordination with vessel operators:

- Deployment of oil containment booms around affected area
- Use of skimmer vessels for recovery of surface oil
- Application of approved dispersants in limited quantities, subject to environmental guidelines

Containment operations commenced within 6 hours of the incident and continued over a period of 48 hours, resulting in substantial recovery and dispersion of the pollutant.

### 4. ENVIRONMENTAL IMPACT

- No immediate impact on coastal shoreline was reported
- Minor impact observed on surface marine conditions in the vicinity of the spill
- No confirmed reports of significant harm to marine fauna or fisheries at the time of assessment

Further environmental monitoring has been recommended to assess any long-term ecological effects.

## 5. RESPONSE COSTS (PRELIMINARY)

The costs associated with pollution response operations are estimated as follows:

<b>Description</b>	<b>Estimated Cost (USD)</b>
Containment & recovery operations	550,000 – 700,000
Equipment deployment & logistics	350,000 – 400,000
Environmental monitoring	250,000 – 250,000
<b>Total Estimated Cost</b>	<b>1,150,000 – 1,350,000</b>

*Note: These figures are provisional and subject to revision upon completion of final assessments.*

## 6. REGULATORY OBSERVATIONS

- The discharge falls within the scope of marine pollution control regulations applicable in the territorial waters and exclusive economic zone.
- Liability and compensation matters are to be determined in accordance with applicable international conventions and national laws.

## 7. CONCLUSION

The pollution incident was contained within a limited operational timeframe, with no significant shoreline contamination reported. However, monitoring remains ongoing, and final environmental impact assessments are pending.

## 8. DISCLAIMER

This report is based on information available at the time of preparation and is issued for administrative and regulatory purposes. It does not constitute a determination of legal liability.

*Directorate of Coastal and Marine Environmental Protection*

### **Issued by:**

Directorate of Coastal and Marine Environmental Protection  
Sultanate of Oman

## Exhibit J - ASG-2 Collision Jurisdiction Agreement

### ASG COLLISION JURISDICTION AGREEMENT

*"MV AURORA"* Collision with *"MV BOREALIS"*

Collision dated 12<sup>th</sup> March 2017

IT IS HEREBY AGREED between the owners of the above vessels as follows:-

- A. The claim of each owner, including the question of limitation of liability, shall be determined exclusively by arbitration in London in accordance with ASG Collision Arbitration procedure in London (ASG 6) and English law and practice.
- B. The undersigned will accept service of the other party's proceedings (including any limitation proceedings) on behalf of their respective clients/principals.
- C. The owners of each vessel will provide security in respect of the other's claim in a form reasonably satisfactory to the other. Upon provision of such security, each owner agrees to waive its right to apply to arrest or re-arrest the other vessel or any associated vessel for the purpose of obtaining further security under the English Law. For the avoidance of doubt, what constitutes 'reasonably satisfactory security' shall be assessed having regard to the nature and quantum of the claim.
- D. The owners of the *"MV AURORA"* hereby warrant that the registered owners of the *"MV AURORA"* at the time of the collision were **WPM & Co.** of Liberia and that the [*"Vessel"*] was not demise chartered out at such time.
- E. The owners of the *"MV BOREALIS"* hereby warrant that the registered owners of the *"MV BOREALIS"* at the time of the collision were **HBB & Co.** of Greece and that the *"MV BOREALIS"* was not demise chartered out at such time.
- F. The owners of each vessel agree to follow the ASG Fast Track Procedure (ASG 7) for exchange of digital/electronic data in Collision Cases.
- G. This agreement shall be governed by English law and any dispute arising hereunder shall be ~~submitted to the exclusive jurisdiction of the English Courts~~ shall be referred to Arbitration in London in accordance with the ASG Collision Arbitration procedure in London (ASG 6).

*Mr. Harvey Spectre*

Signed .....

Solicitors

For and on behalf of the owners of "*MV AURORA*"

*Mr. Mike Ross*

Signed .....

Solicitors

For and on behalf of the owners of "*MV BOREALIS*"

Dated this 23<sup>rd</sup> day of March 2017.

Exhibit K - Letter of Undertaking offered by Claimant's P&I Club

**Admiralty Solicitors Group Form 1 (ASG 1)**

**ASG COLLISION UNDERTAKING**

To: The owners of the "*MV BOREALIS*"

c/o Messrs. HBB & CO

"*MV AURORA*"- Collision with "*MV BOREALIS*" on 12<sup>th</sup> March 2017

**IN CONSIDERATION** of your releasing and/or refraining from arresting [**or re-arresting at any time hereafter**] or otherwise detaining the "*MV AURORA*" or any other vessel or property in the same or associated ownership, management, possession or control for the purpose of obtaining security in respect of your claim arising out of the above collision we hereby undertake to pay you on demand such sum or sums as may be due to you from the owners of the "*MV AURORA*" in respect of your said claim either by agreement between the parties or by final unappealable [~~judgment of the English Courts~~] [**award of a London Arbitration tribunal (or on appeal therefrom)**]\* provided always that our liability hereunder inclusive of interest and costs shall not exceed the sum of USD 8,000,000.00 [**United States Dollars Eight Millions only**].

This undertaking is subject to the Owners' right to limit liability pursuant to the Convention on Limitation of Liability for Maritime Claims.

This undertaking shall be governed by English law and any dispute arising hereunder shall be referred to arbitration in London ~~submitted to the exclusive jurisdiction of the English Courts~~.

*The Best of England P&I Club*

Signed .....

Dated this 23<sup>rd</sup> day of March 2017

*William Patrick McPhilamy, III & Harshal Babarao Bhale*  
Co-Authors of the Moot Problem

## Exhibit L - Notice of Intended Arrest - MV POLARIS

**Date:** 20<sup>th</sup> April 2017

TO,  
The Master,  
*MV POLARIS*  
and  
The Registered Owners of *MV POLARIS*  
AND  
The Disponent Owners / Bareboat Charterers (if any)

FROM:  
Messrs. Khalid & Associates  
Advocates & Maritime Counsel  
(on behalf of the Owners of *MV BOREALIS*)

SUBJECT:  
**Notice of Intended Arrest of *MV POLARIS* at Malé, Maldives  
In connection with claims arising out of the collision involving *MV AURORA* and *MV BOREALIS* dated 12<sup>th</sup> March 2017**

### 1. INTRODUCTION

We act on behalf of the Owners of *MV BOREALIS* ("our Clients") in respect of claims arising out of the collision between *MV BOREALIS* and *MV AURORA* which occurred on 12 March 2017 in the Gulf of Oman.

Our Clients hold the Owners of *MV AURORA* responsible for the said collision and the losses arising therefrom.

### 2. CLAIMS

Our Clients' claims include, but are not limited to:

- Physical damage sustained by *MV BOREALIS*
- Loss of use and associated operational losses
- Costs of repairs
- Pollution-related liabilities and response costs
- Legal and associated expenses

The total quantum of our Clients' claims is presently under assessment but is expected to be substantial.

### 3. BASIS FOR ARREST

It is our Clients' understanding that *MV POLARIS* is a sister vessel to *MV AURORA*, being owned and/or beneficially owned by the same interests.

In the circumstances, our Clients are entitled to seek the arrest of *MV POLARIS* as security for their maritime claims against the Owners of *MV AURORA*, in accordance with applicable maritime law principles governing sister ship arrest.

*William Patrick McPhilamy, III & Harshal Babarao Bhale*  
Co-Authors of the Moot Problem

#### 4. INTENDED PROCEEDINGS

Following the collision, the Owners of MV *AURORA* have provided a Letter of Undertaking purportedly as security for our Clients' claims. However, such security is not acceptable to our Clients for the reasons set out below.

TAKE NOTICE that, in the absence of receipt of adequate and acceptable security for our Clients' claims, our Clients have been instructed to commence arrest proceedings against MV *POLARIS* before the competent courts at Malé, Maldives, without further notice.

#### 5. SECURITY

The Letter of Undertaking tendered on behalf of the Owners of MV *AURORA* is rejected on the following grounds:

- The quantum of security is limited to USD 8,000,000, which is materially below our Clients' presently assessed claim of USD 10,000,000
- The undertaking is expressly subject to the Owners' right to limit liability, thereby rendering the security uncertain and potentially inadequate
- The wording of the undertaking imposes conditions which may prejudice our Clients' ability to obtain full recovery

In the circumstances, the security offered does not constitute reasonably satisfactory security.

#### 6. JUSTIFICATION FOR ARREST

In light of the failure to provide adequate security, our Clients are entitled to take steps to secure their claim, including by way of arrest of a sister vessel.

The right of arrest is a substantive maritime right which remains available in the absence of clear and sufficient security.

#### 7. RESERVATION OF RIGHTS

This notice is issued without prejudice to all rights and remedies available to our Clients, including the right to:

Proceed with the arrest of MV *POLARIS* or any other vessel

Initiate proceedings in any competent jurisdiction

Pursue claims against all liable parties

#### 8. URGENCY

Given the anticipated arrival / presence of MV *POLARIS* within the jurisdiction of Malé, Maldives, this matter is treated as urgent.

You are requested to revert immediately upon receipt of this notice.

*Jessica Pearson*

**For and on behalf of**

Owners of MV *BOREALIS*

**Pearson Hardman**

Advocates & Maritime Counsel

*William Patrick McPhilamy, III & Harshal Babarao Bhale*  
Co-Authors of the Moot Problem

### Exhibit M – STATEMENT OF CLAIM of MV AURORA

<b>Claimant - MV AURORA</b>		
<b>Statement of Claim</b>		
<b>Sr. No.</b>	<b>Head of Claim</b>	<b>Amount</b>
1	Hull damage repairs	USD 3,850,000
2	Pollution response costs	USD 1,200,000
3	Environmental monitoring and penalties	USD 450,000
4	Loss of hire (18 days)	USD 720,000
5	Survey and investigation costs	USD 180,000
	<b>Total Claim</b>	<b>USD 6,400,000</b>

### Exhibit N – Statement of Claim of MV BOREALIS

<b>Respondent – MV BOREALIS</b>		
<b>Statement of Claim</b>		
<b>Sr. No.</b>	<b>Head of Claim</b>	<b>Amount</b>
1	Hull damage repairs	USD 5,200,000
2	Container damage	USD 1,100,000
3	Cargo claims	USD 2,350,000
4	Loss of hire (22 days)	USD 1,100,000
5	Survey and investigation costs	USD 250,000
	<b>Total Claim</b>	<b>USD 10,000,000</b>

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***Important Note:*** Participants may draw reasonable inferences from the documents provided. No additional facts may be assumed unless reasonably inferred from the materials contained in the case file.