

# 18 months of war in Ukraine: how the shipping industry is faring

Arthur Nitsevych, at Interlegal law firm, provides an update on events in Ukraine and the impact on the marine sector

**F**or the past year and a half, the shipping industry in Ukraine and the rest of the world has endured numerous challenges due to the war, including loss of life and vessels in the Black Sea, disruption to trade with Russia and Ukraine and the growing burden of sanctions.

On the first day of the invasion, the operations of Ukrainian sea ports came to a halt, making it impossible to transport cargo by sea for an extended period. More than 80 commercial vessels were stuck in Ukrainian ports. This blockade had a significant impact on Ukrainian exports, as more than 90 per cent of goods were transported by sea, leading to a shortage of grain on the world market.

According to a survey conducted by Interlegal, most members of the business community did not anticipate the outbreak of hostilities. Therefore, many vessels that had started loading or unloading processes shortly before the invasion were instructed to continue cargo operations in February 2022. The belief was that there could not be a full-scale war in the centre of Europe.

**“No ships have left Kherson seaport since the beginning of the war due to obvious dangers”**

Subsequently, the decision to continue loading proved to be problematic for buyers and charterers and raised numerous contentious questions. Is the carrier obligated to issue a bill of lading? Can the seller demand payment for the goods if the vessel is loaded but unable to leave the port of departure? Does the charterer have grounds to terminate the charter? After 12 months had passed since the invasion, P&I clubs and insurance companies began to take an interest in the issue of ships blocked in ports, seeking an answer to the question of whether these ships were genuinely unable to leave Ukrainian territory and were therefore, considered lost, warranting insurance compensation? Shipowners of the blocked vessels started declaring abandonment, arguing that since a specific vessel could not leave the port for an extended period (more than 12 months), it fell under the blocking and trapping vessels clause.

Insurers scrutinise each case, examining the actual reasons preventing the ships from sailing. For instance, on 29 April 2022, following the Order of the Ministry of Infrastructure of Ukraine,

several sea ports under enemy occupation, including Berdyansk, Mariupol, Skadovsk, and Kherson, were officially closed. Consequently, in the case of the Kherson seaport, no ships have left there since the beginning of the war due to obvious dangers. This represents just one situation.

However, when considering a ship blocked with non-grain cargo in one of the ports of Big Odesa (Odesa, Chornomorsk and Pivdenny), the situation differs. These ports were not officially closed but, from both practical and legal standpoints, it was impossible for these ships to leave. Warnings from the State Hydrographic Service at that time serve as original documents that established specific coordinates prohibiting shipping in Ukrainian waters.



Monument to the first shipbuilders in Kherson, Ukraine

On 22 July 2022 the Grain Agreement was signed, establishing sea corridors for the export of Ukrainian grain from three ports: Odesa, Chornomorsk, and Pivdeny, in collaboration with the UN, Turkey, Ukraine and the Russian Federation. The first vessel to depart Ukraine under the grain agreement was MV *Razoni* on 1 August 2022.

Subsequently, several commercial ships carrying non-grain cargo were able to unload their cargo, load grain and exit Ukraine along the grain corridor. Implementing this plan raised several issues, which could only be resolved through the active cooperation of all participants in the process to:

- Find a port terminal ready to handle the cargo efficiently, considering the terminal's technical capabilities and the vessel itself.
- Obtain permission from the military administration to move the vessel if it was not docked.
- Secure the cargo owner's consent for unloading.
- Determine the customs status of the cargo and clarify who should bear the costs of its storage at the terminal.

Unfortunately, from our experience, not all participants in the process were consistently interested in unloading the cargo.

Within the framework of the grain agreement, from August 2022 to June 2023 approximately 30 million tons of Ukrainian grain were exported. However, on 17 July 2023 the Grain Initiative was terminated.

To restore navigation in the region, coastal warning No 122/2 was issued on 9 August 2023, based on the order of the Naval Forces of the Armed Forces of Ukraine. This directive aims to establish temporary routes for merchant vessels traveling to or from Ukrainian seaports. *Joseph Schulte* was the first vessel to successfully depart the Ukrainian seaport after the termination of the grain agreement.

In 2023 we are primarily dealing with cases related to the arrest or release of vessels calling at the Danube ports of Izmail and Reni, which are physically located in the Danube River but considered maritime ports. These cases often involve smaller vessels, primarily coasters, leading to congestion in the channels entering both Romanian and Ukrainian ports. Additionally, we have seen an unusual increase in collision cases within the Danube ports, creating something akin to a traffic jam on the water.

It is important to highlight two significant developments that require attention:

- The Cabinet of Ministers of Ukraine approved a procedure for providing guarantees of compensation for damage caused to charterers, operators, and/or owners of vessels as a result of armed aggression by the Russian Federation. This procedure applies to vessels flying both Ukrainian and foreign flags. While the procedure may not be fully operational at the present time, it is being developed in the right direction.
- Ukraine has actively imposed its own sanctions against Russian and Belarusian legal and physical entities, in addition to those imposed by the US and EU. Compliance has always been of utmost importance to reputable shipping and commodity businesses and we have already received several inquiries on this matter.

The infrastructure sector has had to adapt to the disruption of sea routes and shift to rail transportation, complicated by the difference in railway gauges between Ukraine and its neighbours like Romania and Poland. Rebuilding supply and logistics chains,

particularly for grain exports, has been a priority for the country. Moreover, the government has initiated a privatisation process focusing on selling off state-owned assets. Notably, a small port on the Danube River, Ust-Dunaysk, was recently privatised and passed into private ownership.

## “In the coming years lawyers will play a crucial role in rebuilding and shaping the new Ukraine while pursuing necessary legal actions to claim damages from the aggressor”

As an example of a law firm operating in the region, given the circumstances, the team at Interlegal are managing well. Common to many businesses and organisations in the area, the firm's daily challenges include the mobilisation of personnel, as team members have been called to serve in the army since the start of the war, and replacing them can prove difficult. Additionally, travel restrictions and difficulties in leaving Ukraine have presented problems, often meaning that only female employees can currently undertake business trips. Moldovan and Romanian airports are being used as starting points for logistics since Ukrainian airports remain closed, which is not ideal, but a necessary adaptation. Some staff now reside in Poland, Italy or Romania and continue to work remotely.

In the coming years lawyers will play a crucial role in rebuilding and shaping the new Ukraine while pursuing necessary legal actions to claim damages from the aggressor. It is worth noting that, from February 2022 to April 2023, about 30 vessels suffered heavy damage due to hostilities, with one-third of them flying the Ukrainian flag. Many port terminals and warehouses were damaged, and numerous river barges were stolen or damaged.

Plans to rebuild Ukraine are already in motion, transitioning from discussions to concrete plans and understanding who will be responsible for what. It is believed that infrastructure rebuilding will begin in the Odesa region, which is the closest point on the map to the EU. In fact, Interlegal's local teams of international consultants are currently working on two investment projects aimed at making the southern part of the Odesa region (Bessarabia) more attractive for logistical investments.

It has indeed been a challenging period, but it has also made us stronger. We are immensely grateful to the people and governments from other countries who have supported us during this time. It took some time, but we appreciate everyone who stood by us. [MRI](#)



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