

Questionnaire

Question 1:

Is there any legislation(or regulation) specifically dealing with the classification activities of classification Societies in your country?

Yes.

Question 2:

On what basis does your court retain jurisdiction in respect of a third-party claim against a Classification Society:

- domicile of the defendant,
- locus delicti,
- joinder with other defendants,
- Rules of the Society,
- others?

Locus delicti.

Question 3:

How many cases-if any-concerning the liability of Classification Societies to third parties, have been decided in your country?

n/a

Question 4:

On which of the following subject matters were these decisions rendered:

- sinking or damage to a ship including pollution damage?
- action by cargo owners or their insurers or by charterers?
- sale of a secondhand ship?
- others?

n/a

Question 5:

What is the legal basis used or considered in the decisions rendered, in your country, in cases of third-party claims against Classification Societies:

- tort
- duty of care
- negligent misrepresentation
- reliance on the classification certificate
- others?

negligent misrepresentation.

Question 6:

Has a court of your country imposed liability on a Classification Society on the basis of insufficiency or incompleteness of their Rules?

No.

Question 7:

Is a certificate of classification considered in your country as a certificate of seaworthiness?

Yes.

If so, what is the reasoning?

It is the certification securing the condition of the ship's hull, equipment, or machinery as the core part of the seaworthiness, but it doesn't mean it cover the whole seaworthiness including human factors and cargo worthiness.

Question 8:

What is the importance given, by your courts, in their reasoning on the liability of classification societies towards third parties, to the rules and regulations of the Society?

Korea classification society issues the classification rule based on the agreement of the cabinet and enforces that.

As the classification rule is agreed with IMO and International classification society , the courts recognize it as instruments.

Question 9:

What are the defenses available to a Classification Society sued in tort by a third party (assuming that the facts of the matter are not disputed)?

Korea classification society treats tort by a third party such as the fabrication or stealing the classification certificate according to the relevant law.

Question 10:

Have Classification Societies the possibility to invoke, in your country, the limitation of liability inserted in their rules or in the classification certificates as a defense against a tort action of a third party? If so please expand.

Yes, As the Rule of Korea classification society carries legal binding force it can request his limitation of liability.

Question 11:

Is, on one hand personal injury or death allegedly caused by negligence of a Classification Society and, on the other hand, economic loss, treated by your courts according to the same principles of laws or different ones?

In such a case please explain the differences.

According to the extent of illegal act and the misappropriation on the property, D. P. R. Korea uses the Civil Law, the Criminal Law and the Law of indemnification for damage to solve the loss of the property of the agency, enterprise and citizen or personal liberty and only accepts the legal principle by the fault.

Question 12:

Please explain briefly the rules of procedure applied and of investigations carried out in your country in such matters concerning Classification Societies liability with particular emphasis on the role of:

- private or court experts
- witnesses.

D. P. R. Korea has the courts of admiralty attached to the Central Court. In our country, the party such as the Classification Society makes an appeal to the court of admiralty appointed by the nation.

And also a judge designated by the Civil Procedure Law of D. P. R. Korea works for the gathering of proofs, identification and the preparation of judgment with the parties such as the plaintiffs, defendants and witnesses. And then takes the trial for the decision.

Question 13:

Would a third-party claim against a Classification Society be subject to any time limitation or time bar in your country?

Yes.

Thank you.

Maritime Law Association of DPRK

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