P&I Insurance in view of new developments in International Maritime Law

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Shipowners' insurance requirements

- Hull and Machinery (H&M)
- Protecting and Indemnity (P&I)
- Freight, Demurrage & Defence (FD&D)
- War Risks
- Strike Insurance
Why shipowners need P&I Insurance?
P&I Insurance

provides cover for shipowners’ third party liabilities

• Protection
Term generally used to describe cover for risks arising in respect of people, ships and others.

• Indemnity
Term generally used to describe cover for shipowners’ liabilities from the carriage of cargo.
1994 Estonia - Fatality

- 852 lives lost
1978 Amoco Cadiz – Crude Oil

- 223,000 tons of crude oil off North West France.
1989 Exxon Valdez - Crude Oil

- Clean up costs in the first year exceeded US$2 billion.
P&I clubs

- An Association of Shipowners
- Insuring each other against third party liabilities
- On a mutual basis (sharing of risks)
- Non-profit making
- Owned by their shipowner members.
- Controlled by their shipowner members.
- Exist solely for the benefit of their members.
- A service provider as well as providing insurance.
- Payment First by the Member (‘pay to be paid’ Rule)
- No direct action
Risks Covered

- People
- Ships
- Cargo
- Others
• People 22%
People

- Seamen
- Supernumeraries
- Passengers
- Third Parties
- Stowaways
- Persons in Distress
Ships

- Ships 38%
Ships

Collisions

Ships

Non-Contact Damage to ships
Ships

Pollution
Ships

Wreck Removal

Ships

Towage
Others

- Others 2.6%

Value of Claims - 2002 to 2008

- 38.3% Ships
- 21.5% People
- 37.6% Cargo
Others

- General Average
- Salvage
- Fines
- Legal Costs
- Risks Incidental to Shipowning
- The ‘Omnibus Rule’
International group of P&I clubs (IG)

- 13 Member Clubs.
- Over 90% of world tonnage.
- Collective insurance and reinsurance.
- Represent view of shipowners.
- Exchange information.
• Wreck Removal
• Athens 2002
• Bunker
• HNS
• GIC

Requiring Compulsory Insurance
International Conventions
Torrey Canyon 1967
CLC 69 and 92

- **CIVIL LIABILITY CONVENTION**
- Imposes strict liability on tanker owners for pollution clean-up and compensation
- Claims must be brought in a convention state
- Tankers carrying 2,000 or more tonnes of persistent oil in bulk as cargo must carry a CLC certificate
- Tanker owner may limit liability
- Covers bunkers on board when CLC applies
Fund 71 and 92

- Supplementary to CLC 69/92
- Receivers in countries importing more than 150,000 tonnes oil contribute to the IOPC Fund
- Provides additional compensation over CLC limits of liability
- Fund 71 closed 24 May 2002
CLC Certification

- Owner obtains "Blue Card" from P&I Club
- "Blue Card" submitted to issuing authority by owner
- CLC Certificate issued by signatory State
HAZARDOUS AND NOXIOUS SUBSTANCES

- Two tier compensation system:
  - Shipowner
  - HNS Fund

- Imposes strict liability for pollution clean-up and compensation

- Owners required to have certificate of insurance similar to CLC certificate

- Not entered into force
HNS convention, 2010

- 2010 Protocol to HNS Convention 1996 amended HNS Convention 1996 to remove obstacles for entering into force

- HNS Protocol 2010, increases Shipowners' liability in the first tier for packaged cargo for 15%

- Requires certificates of insurances
Bunker Convention, 2001

- Applies to pollution caused by bunkers from all vessels except those to which CLC applies
- Strict liability
- Limits in accordance with applicable national or international regime
- Vessels over 1000 GT required to maintain insurance up to LLMC 1976 (amended 1996) limits.
- Clubs issue Bunker Blue Cards
- State Parties issue Bunker Certificates
- Entered into force 21 November 2008
Athens Convention, 2002

- Introduces strict liability of the carrier up to SDR 250,000 per passenger for death and personal injury caused by shipping incidents
- Compulsory insurance up to SDR 250,000 per passenger for each distinct occasion
- Direct action against insurer
- Blue cards are required
- Not yet entered into force
Wreck Removal Convention, 2007

- Strict liability of Registered Owner for the costs of locating, marking and removal of the wreck
- Vessels over 300 GT are required to maintain insurance up to LLMC 1976 (amended 1996) limits
- States are required to issue certificates to all ships over 300 GT
- Not yet entered into force
Conclusions

- Well established system of voluntary liability insurance through P&I Clubs

Vs.

- Compulsory insurance requirements and direct action provisions of new international conventions
Thank you!