Understanding P&I Clubs

A Presentation by
Gillian Musgrave – Regional Claims Director, Standard Asia
&
David Heaselden – Loss Prevention Director, Shipowners’ Mutual
Purpose of our presentation:-

- To demystify the world of P&I to those who are not familiar with it.
Purpose of our presentation:-

• To demystify the world of P&I to those who are not familiar with it.

• Hone the knowledge of those of you who have heard of it.
Purpose of our presentation:-

• To demystify the world of P&I to those who are not familiar with it.
• Hone the knowledge of those of you who have heard of it
• ........and to provide a good excuse for an afternoon nap for those of you who know all about it.
We will:-

• Briefly explain what P&I Insurance is and how it fits into the Marine Insurance market
• Give you a run through the history of P&I
• Describe the cover we provide
• Give you an insight into the organisation of the P&I Clubs
• ...........and a case study.
What is P&I Insurance?
• In a nut shell, Third Party Liability insurance for the shipowner, operator or charterer.

Where is its place in the grand scheme marine insurance?
• Notwithstanding a whole plethora of different types of insurance available to the marine industry, P&I sits with.........
Hull and Machinery Insurance – covers the hardware
Cargo Insurance – covers the cargo only
Cargo Insurance – covers the cargo only
Protection and Indemnity Insurance

• When you conduct a service for reward or third parties use your facilities, you have an exposure to claims should something go wrong.

• The same applies to Shipowners or operators.

• You can purchase insurance to cover these liabilities, Namely P&I Insurance.

• These three marine insurances, H&M, Cargo and P&I are linked and give the interests in a marine adventure the insurance cover they need.
P&I Clubs – A History Lesson!
Marine Insurance – Roots go back to Ancient Greek and Roman times
• 18\textsuperscript{th} Century Great Britain, formation of Clubs to provide Hull insurance at reasonable cost.

• Beginning of 19\textsuperscript{th} Century, Hull insurance became more affordable, Hull Clubs went into decline. (today a few exist but not commonplace at all).

• As the 19\textsuperscript{th} Century progressed, greater exposure to 3\textsuperscript{rd} Party liability claims, in particular from their crews. Laws were passed which made it even easier for crews and their dependents to claim.

• Problem further exacerbated by the rapid increase in passenger traffic as emigrants flooded to America and Australia.
• Shipowners were faced with claims from 3\textsuperscript{rd} parties with those ships they had been in collision.

• A court ruling in 1836 found that following a collision hull cover did not extend to damage caused by collision.

• H&M Insurers acted quickly to address this gap but only provided $\frac{3}{4}$ of the damage.

• Original limitation was to the value of the ship itself, but this began to be exceeded, leaving shipowners to find the excess.
Enough was enough and a group of shipowners joined together in 1855 and formed the “Shipowners Mutual Protection Society”. More “Clubs” followed.
Until 1870, shipowners could use the exclusions in their Bills of Lading to avoid liability for cargo related claims. An incident occurred whereby it was deemed it lay outside of the exclusions and the shipowner was liable and Club rules did not cover the cargo claim.

This and the ever increasing value of cargoes and the willingness of cargo interests to try and recover their losses caused the shipowners to look at the cover available to them.

To cover cargo risks, known as “Indemnity Risks”, “Indemnity Clubs” were formed and the already established Protection Clubs amended their rules to take on Indemnity risks and “Protection and Indemnity” Clubs came into existence.
• P&I Clubs today are the result of the history described and.............

• Inability of Shipowners to restrict liability through court rulings and limitation legislation, and...........
Torry Canyon – 1967, the world's first major marine oil pollution incident, focused much attention on oil pollution.
Formed in 1899.
Today insures approximately 90% of the world's blue water tonnage and a good deal of the brown water tonnage.
Pooling Agreement

- The means to share, “pool”, mutual risks/claims
- Higher limits provided by IG P&I Clubs
  - Oil Pollution – US$1bn
  - Other limits – US$2bn for passengers + US1bn for non passenger liabilities on a passenger vessel
  - Cover to owners max. legal liability (capped at 2.5% of Global Liability tonnage – 1976 convention).
Club P&I Insurance cover
Club P&I Insurance cover

- The insurance covers the members’ legal liabilities to third parties

- The liabilities must arise out of the operation or management of the ship

- What legal liabilities?
Risks covered by a P&I Club

• Personal injury / illness / death
• Collision
• Wreck removal
• Damage to fixed and floating objects
• Pollution
• Cargo damage/shortage
• Fines
• Stowaways
• Other
Personal injury/illness/death

Crew

Passengers

Stevedores

Third parties
Injury?
Accident waiting to happen?
Personal injury/illness/death

- Liability for injury, illness or death
- Crew repatriation
- Crew substitute expenses
- Loss of crew effects
Personal injury: crew liabilities

- Medical costs
- Repatriation expenses
- Sick wages
- Deviation/substitution expenses
- Contractual entitlement
- Damages/compensation
Collision

No cover of the member’s ship

1/4<sup>th</sup> of damage to other ship

or 4/4<sup>th</sup> with additional premium

Some consequential liabilities
e.g., pollution, personal injury
Wreck removal
Wreck removal

- **Costs** incidental to the raising, removal, destruction, lighting or marking of an entered ship

- **Liabilities** incurred by a member as a result of the raising, removal or destruction of the wreck of an entered ship

- **Liabilities** incurred because of the presence or involuntary shifting of the wreck of an entered ship

- **Liabilities** incurred (including costs/expenses) incidental to the disposing of cargo
Damage to fixed & floating objects

Physical damage caused:
- docks
- fixed or floating objects
- fishing nets
- coral reefs
Coral damage: Restoration costs
Pollution

- Typical claims arising out of pollution
  - Liability for loss, damage or contamination
  - Clean up costs
  - Preventive measures
  - Costs of complying with Government directions
  - Salvor’s compensation for pollution prevention
Pollution: clean up costs
Towage

- towage of an entered ship
- towage by an entered ship
- contract must have been approved
Cargo damage and shortage

• The cargo itself is not insured, but the Club covers the member for liabilities to cargo owners
• Cover for liabilities arising out of loss or damage to cargo
• Cover for disposal costs of damaged cargo
• Cover for third party bunkers e.g. charterer’s
• Cover for cargo’s proportion of GA
Heavy weather: wet damage/loss
Finished steel products
Fines

- Cargo
- Customs
- Immigration
- Accidental pollution
- Discretionary
Stowaways

- Covers costs of repatriation
- Additional costs for security
- Pre and post departure stowaway checks
- Costs of accommodating stowaway
- Costs of emergency documentation
Role of the club

• manage claims
• act as central point of contact
• appoint experts, lawyers and correspondents
• 24 hour emergency response
• pay claims and fees incurred
• advise on safety and loss prevention
Provision of security

- arrest or threat of arrest of an entered ship
- club letters of undertaking
- arrangement of bank guarantees
Underwriting
Underwriters

Aim:
To underwrite good business which contributes to the mutual benefit of the membership

- Evaluates and underwrites risk
- Sets the rates and terms for the risk
- Monitors the business regularly
- Provides insurance solutions/advice
- Timely production of accurate documentation
Main factors when assessing risk

• Physical Risk
  • Type of vessel – Barge/Fishing/Offshore/Cargo
  • Types of operations – Reefer/Drilling/Towage
  • Age of Vessel – Machinery employed
  • Class
  • Flag – Home or Flag of Convenience
  • Trading
  • Crew – Nationality/Qualifications

• Moral Risk
  • Assured – Experience in operations
  • Nationality of Assured
  • Owner/Manager/Charterer
  • Loss Record – Adverse claims record
  • Previous Insurers?
  • Size of fleet
  • Extent of cover being sought
Correspondents

- utilise local knowledge to assist the member with P&I issues
- provide instant on the spot representation
- appoint local surveyors or attend in person
- report to both the club and the member
- provide a link with the local authorities
Loss Prevention
Cost of Claims...

...Why should we Care?

• P&I Clubs are a mutuals
  – The insurer is the insured
  – Therefore in everyone's best interest to reduce claims

• Considerable time and effort put into education and dissemination of information.
We live in a litigious society and the cost of defending a claim can far outweigh any compensation.

Overall the number of claims is reducing but the cost is increasing.

This may result in:

- Increase in deductibles
- Loss of commercial reputation/loss of business
- Increase in premiums
Loss Prevention Department

- Consists of two related responsibilities:
- Loss Prevention
- Ship Inspections
- Both areas work closely together to maintain the quality of the mutually insured vessels and to assist Members to avoid future claims.
The ‘Aim’ of Loss Prevention

- Assist Members, through guidance and education in reducing incidents that may result in a claim.
Loss Prevention

• Loss prevention

• *Proactive*
  – Prevent an incident occurring

• *Reactive*
  – Mitigate the consequences of an incident
  – Prevent it happening again by working with Members.
Prevention is Better than the Cure

- We have a number of claims on record, wherein the root cause was found to be the same as earlier incidents and this highlights the fact that lessons learnt were not being effectively disseminated.
Loss Prevention

Proactive – How?

- Seminars
- Member visits/ participating in Training Days
- “In House” Courses
- Ship Visits
- Sponsored Training Courses
Loss Prevention

This is carried out in many ways:

1. Publications
2. Safety posters
3. Member visits and seminars
4. Management audits
5. Analysis of claims/Causation database
Ship Inspection Programme

- Each year – over 500 vessels inspected.

- Inspections benefit the Member and the Club

NOT MEANT TO BE CONFRONTATIONAL!!!
Ship Inspections

• Guided by I.G requirements re monitoring sub standard tonnage

• Club’s own survey requirements and managers discretion

• Targeted, but reduced inspections where practicable on known problem vessels

• Targeted inspection on ship type/Class/claims record/high risk

• Due to a claim that may indicate a defect on the vessel

• Port State Control have indicated there is a problems with the vessel
Break
Collision
Development of a crisis

Phase I
Incident notification and initial handling
5 hrs

Phase II
Dealing with immediate crisis
1 week

Phase III
Consideration of legal/technical issues
3 months

Phase IV
Resolution of Claims
3 years
Phase 1 (5 Hours)

• Initial assessment/identification of risks and issues
• Safety of crew/vessel
• Notification
• Instruction of correspondents/lawyers/technical experts
• Formation of Member Incident Management Centre and Club Casualty Management Team
• Member support
Initial assessment of risks

Initiate ship’s response plan

Assessment by Ship
- safety of personnel and ship
- geographical location / environmental condition
- Pollution incident:
  - type of pollution
  - physical characteristic
  - amount spilled
  - quantity onboard
  - clean up capabilities
Notification/Reporting

WHEN?

• immediately
• concern / suspicion of incident
• pollution: escape from own vessel or oil sighted in adjacent waters

WHO?

▷ owner / manager
▷ port authorities
Notification/Reporting

• Why notify owners and managers?

• They will:
  • Notify authorities, agents
  • Insurers
    - P&I
    - H&M
    - TT
    - loss of hire
  • Charterers, cargo interests
  • Headquarters & set up incident management centre
  • Direct and co-ordinate initial response
  • Control media
Notification/Reporting

Why notify Port Authorities?

- they are watching!
- aerial surveillance
- satellite imagery
- infra-red observation
- vessel tracking
Notification/Reporting

Consequences for failure to report to Authorities

- penalty / fine
- mitigation through cooperation
- equipped to respond with resources
Role of P&I Club

24 hour emergency response

- Appointment of correspondents, surveyors, lawyers, experts
- If pollution:
  - oil spill response providers
  - ITOPF
  - IOPC Fund

- Formation of Club Casualty Management team
- Agree with member on plan of action
Phase II (1 Week)

- Dealing with on-going crisis
- Response/minimization of risk
- Gathering and Preserving Evidence
Dealing with on-going crisis

- Assistance to master / crew
- Local office
- Local authorities
- Pollution
Response/Minimise Risk

Response by P&I and the correspondent

• co-ordination with port authorities, government organizations
• central point of contact
• arrange mobilization of resources
• Teamwork
• claimants/security
• media/press
Gather and Preserve Evidence

By crew and surveyors

- investigate source and cause of incident
- record time sequence of events, ship’s logs, obtain documents
- video of incident / photographs of accident site, retain any relevant equipment or evidence
- monitor surveyors from third parties and restrict access
Gather and Preserve Evidence

Appointment of lawyers

- take statements from:
  - master
  - crew
  - other witnesses

- collect evidence:
  - documents
  - photos
  - Video

- subject to legal privilege
Phase III (3 Months)

- Liability analysis
- Extent of damage
- Development of case strategy
Phase IV (3 Years)

- Legal proceedings
- Settlement negotiations
- Resolution of claims
and finally, more examples of what can go wrong for shipowners!
Collision Resulting in Fire
The End