

“Protection and Indemnity Insurance – P&I Clubs”

What is a “liability”?

- ❑ Liability is an obligation to compensate another party for loss or damage of any type (including personal injury or death) suffered by that party as a result of the actions of the offender.



Contractual & Third Party Liability

□ There are two main categories of Liability:

- The Contractual Liability, i.e. the Liability one may incur as a consequence of failing to comply with the terms of a contract, such as the Liability that a Shipowner has for the damaged cargo, for the crew members etc.
- The Third Party Liability, i.e. the Liability one may incur in the absence of a contract, such as the Liability that a Shipowner has towards third parties by the collision of his vessel with another vessel etc.

What is a P&I Club and how it was created?

- During the mid nineteenth century, Shipowners found themselves with liabilities which their traditional Hull & Machinery Underwriters were unable or unwilling to cover. In order to solve the problem, groups of Shipowners formed themselves into mutual associations and agreed to share each other's claims. These organizations have now developed into the, so-called, Protection & Indemnity (P&I) Clubs.

P&I Clubs

- Today, there are approximately 20 P&I Clubs worldwide. However, the 13 Clubs of the International Group, covering almost 90% of the world's merchant fleet, are the following:
 - American Steamship Owners Mutual P&I Association
 - Skuld Mutual Protection and Indemnity Association
 - Gard Mutual Protection and Indemnity Association
 - The Britannia Steam Ship Insurance Association
 - The Japan Ship Owners' Mutual Protection and Indemnity Association
 - The London Steamship Owners' Mutual Protection and Indemnity Association

P&I Clubs

- The North of England Protection and Indemnity Association
- The Shipowner's Mutual Protection and Indemnity Association
- The Standard Steamship Owners' Protection and Indemnity Association
- The Steamship Mutual Underwriting Association
- The Swedish Club
- United Kingdom Mutual Steam Ship Assurance Association
- The West of England Ship Owners' Mutual Protection and Indemnity Association

The International Group

- The International Group is a huge reinsurance organization. The Group's role is the following:
 - The Clubs themselves share claims with each other and buy high levels of reinsurance on a collective basis. Thus, firstly, the Club will pay claims of up to US\$5mio, secondly, the Pool of all Clubs will pay the next US\$25mio and thirdly, the claims excess of US\$30mio (US\$5mio+US\$25mio) are reinsured as one collective contract. This enables each Club to provide much higher levels of cover than are normally available in the commercial market.

The Corporate Structure of P&I Clubs

- ❑ P&I Clubs are mutual associations owned by the Members, who are mainly the Shipowners, for the Members.
- ❑ Operated on a not for profit basis, meaning in practice, that the claims and operating costs in a policy year shall be covered by the premium and investment income in that year.
- ❑ Any surplus will be allocated to the reserves.
- ❑ Shipowners agree to mutually protect each other.
- ❑ Each “Member” of the Association agrees to proportionally contribute towards each other’s losses.
- ❑ Professional managers run the Clubs on behalf of the membership.

Why Protection & Indemnity is required?

- ❑ **Protection** is required for the safe working of seafarer and ship.
- ❑ **Indemnity** is required to compensate for the loss of life, environment and property.

What P&I Insurance covers?

P&I Covers the Shipowner against Third Party Liability arising out of his ownership of the insured vessel, arising out of events such as:



Crew and/or third party loss of life, sickness, injury, including sickness wages, repatriation costs, burial expenses etc.



Liability to cargo owners due to loss, damage, short delivery, improper stowage, theft or contamination of cargo

What P&I Insurance covers?



Collision liability
(excess of any hull insurance cover)



Loss of, or damage to fixed and floating objects, such as
stacks, piers, cranes, buoys and other similar objects



Removal of wreck liability



Pollution liability

What P&I Insurance covers?



Fines imposed by customs, governments etc.



But perhaps, most **important** of all:
Legal defense costs against P&I liabilities



The “COSTA CONCORDIA” loss in January 2012

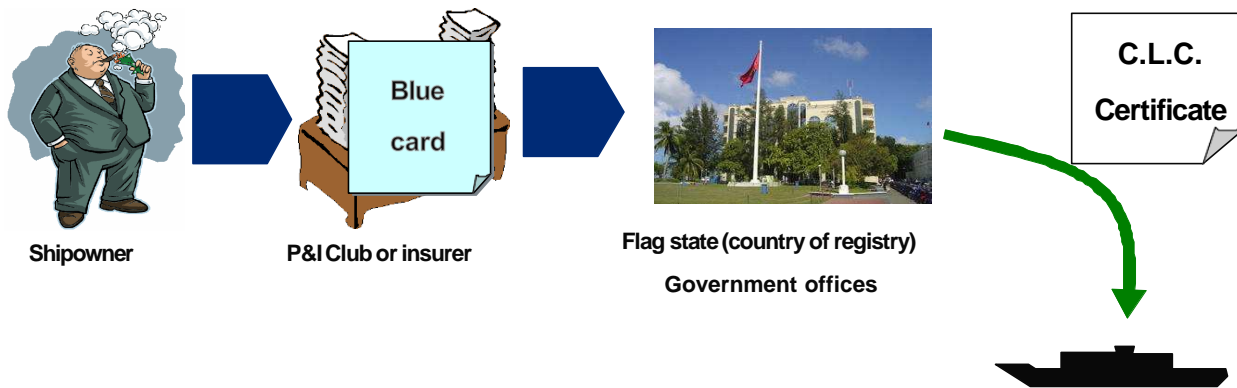
The “Costa Concordia”, a 290-metre, 130,000 gt cruise ship carrying 4,252 people (3,206 passengers and 1,023 crew and personnel), struck rocks off the coast of the island of Giglio, Italy on 13th January, 2012. Thirty-three lives were lost and the vessel, which remained half-submerged until she was righted during September, 2013, was declared a total loss, resulting in a staggering bill for the marine insurance market.

While insurers of Hull & Machinery took a loss of close to US\$ 500 mio, it is the P&I claims, chiefly relating to wreck removal, that are proving most challenging for the industry. Costs for P&I reached a staggering US\$ 1.44 bn as a result of the complicated process of removing the wreck (*the fuel and oil was extracted in March, 2012, the vessel was righted in September, 2013 & she was finally refloated and towed in July, 2014*).

It is undoubtedly the costliest marine loss in the history of the industry, eclipsing cases such as the containership M/V “RENA”, which grounded off the coast of New Zealand in 2011.

P&I – A ticket to trade

- ❑ Countries require proof that ships have adequate liability insurance.
- ❑ Especially for pollution liability, Shipowners have to show evidence.



P&I – A ticket to trade

- For most countries around the world, the evidence of a P&I Club “blue card” is sufficient to allow the vessel to enter ports and waterways, as it provides adequate evidence that the vessel is protected for the liabilities the Owner may incur following an accident, at least up to the current international convention amounts.

P&I – A ticket to trade

- ❑ However, USA will not accept a P&I club “blue card” as they consider the guarantee is not wide enough. Thus, in order to sail within the waters of the United States Exclusive Economic Zone (200 nautical miles offshore from the mainland of the USA and surrounding islands and dependencies of the USA, most notably in the Pacific Ocean) a U.S. Certificate of Financial Responsibility (COFR) has to be obtained from the U.S. Coastguard.



Price factors for the P&I Club's Members

□ Price for each Member varies upon various factors:

- The Member's tonnage entered
- The types of vessel being covered
- The geographical areas of operation
- The Member's past claims history
- The Club's overall financial position

Mutual P&I Club Calls

- Each year, the Member of the “Club” pays their annual **ADVANCE CALL** to the Club
- Anniversary date: 20th February
- Losses occur – Claims get paid
- Some years, the Members see the “pot” get exhausted, when claims exceed the “Advance” Calls
- Then, all Members pay a **SUPPLEMENTARY CALL** to cover the shortfall in reserves

Mutual P&I Club Calls

- Some claims may take years to resolve and end up much larger than originally estimated.
- Supplementary Calls may be required for “back” years as well as the current year.
- This can result in a build up of Calls, until the Managers feel that they have enough funds to meet the remaining outstanding claims.
- They may charge one **FINAL CALL**.

P&I Calls Vs Fixed Premium


Calls


- All “Members” pay an “Advance Call”, but they may be required to pay more later
- Same needs to be a reasonable estimate of anticipated claims
- Members must pay more (Supplementary Calls)


Premium

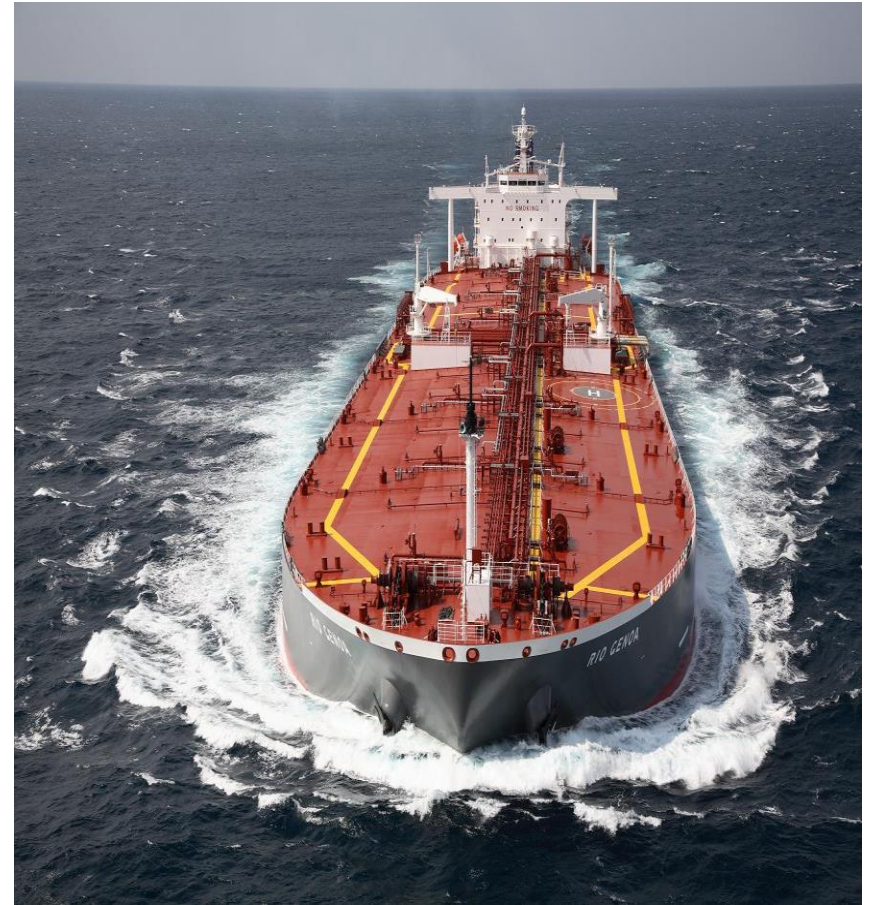
- A Premium is charged at the inception of the risk, and this amount is all the Assured will be required to pay
- Same needs to be enough in order to cover all anticipated claims
- The Insurer goes bust!

P&I Club Rule Books

 The rules of each Club are contained within the **CLUB RULE BOOK**.

 The Rule Book is issued each year (*mostly, now, available on-line*).

 Clubs also issue **CLUB CIRCULARS** whenever the Club needs to inform Members of shipping news or maritime legal changes around the world.



P&I Correspondents



around the world, each Club has a network of club correspondents.



These are professionals, available to assist and advise Members on local matters.



in hand to protect the position of both the Member and the Club following a possible liability event.

Big recent P&I Claims

VESSEL	INCIDENT	TYPE	CLUB
"ANGEL 1"	Hit a reef after engine failure Sank with loss of cargo	BULKER	SKULD
"B OCEANIA"	Sank after collision with "XIN TAI HAI" carrying iron ore	BULKER	SWEDISH
"BARGE S 45"	Damage to rig off West Africa	HEAVY LIFT	STANDARD
"COSTA CONCORDIA"	Grounding	CRUISE SHIP	STANDARD & STEAMSHIP
"OLIVA"	Ran aground and broke up near Tristan da Cunha	BULKER	GARD
"PIONEER PACIFIC"	Collision Liability	BULKER	SWEDISH

Big recent P&I Claims

VESSEL	INCIDENT	TYPE	CLUB
“RENA”	Grounding off New Zealand, vessel eventually polluted, then broke up	CONTAINER	SWEDISH
“SHIRAMIZU”	Grounding in Japanese Tsunami	BULKER	JAPAN
“SUSAKI WING”	Contact damage to papermill dock in Oregon, USA	BULKER	JAPAN
“UNISON VIGOR”	Contact damage with “OCEAN FLAVOR” while discharging in Thailand	GENERAL CARGO	JAPAN
“XIN TAI HAI”	Collision with “B OCEANIA”	BULKER	SKULD

Additional Cover Offered...

FD&D (Freight, Demurrage & Defence)

FD&D is a legal expenses insurance, which pays the legal costs incurred in the handling of a dispute (charterparty disputes, disputes with repairers, disputes with terminal operators/ports, disputes with builders, disputes with salvors), which arise from the building, buying, selling, owning and trading of a vessel.

Whilst P&I and H&M insurances usually facilitate the Owner's trading activities by protecting his assets and indemnifying him for the liabilities he incurs by trading his vessels, it is the FD&D insurance which protects the Owner's income or the capital ventures he undertakes, by covering the legal costs that may occur when pursuing other parties in a dispute.

References

- *Brachel, A., 2008. Introduction to P&I – The background, the rules and the wet stuff. Gard.*
- *Insurance Day, 2014. Costa Concordia: raising the wreck. Available from: <https://www.insuranceday.com/losses/costa-concordia-loss-analysis.htm> [accessed: May 10, 2017].*
- *Lin, M.T., 2009. A selective appraisal of the P&I insurance system with special reference to claims for personal injury, illness and loss of life. World Maritime University Dissertations.*
- *Marine Insight, 2016. The Importance of P&I Club in Shipping. Available from: <http://www.marineinsight.com/marine-safety/the-importance-of-p-i-club-in-shipping/> [accessed: May 10, 2017].*
- *Seward, R.C., 2002. The Role of Protection and Indemnity (P&I) Clubs.*