

Consequences of the new CLNI convention on insurance

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Consequences of the new CLNI convention on insurance

- what is a Protection & Indemnity club? – what is covered and what isn't covered?
- what is limitation?
- why should owners limit? – benefits of limitation
- CLNI regime old and new
- alternative to no limitation
- how can the club assist?
- conclusion



What is P&I insurance?

What is a Protection & Indemnity club?

- a facility to provide insurance cover to shipowners for third party liabilities
- a group of shipowners who agree to share each other's liabilities
- Shipowners are both the insurer and insured
- the club receives premiums and pays claims to members
- 90% of world tonnage is insured by the International Group clubs
- Mutual providers of P&I insurance
- 13 International Group P&I clubs including Standard Club
- Other fixed premium
- the club is governed by a set of rules
- The Standard Club has been established for over 125 years
- Standard London class is a specialised P&I class for ships up to 5,000 gt, European trading limits, sea going and inland waterways
- the activities of the London class are overseen by the class committee

Who can join a P&I club

- shipowners
- charterers
- managers and operators of ships

Main areas of cover

- cargo loss/shortage and damage
- pollution (present club limit US\$1 billion for oil pollution)
- personal injury claims
 - crew
 - passengers
 - third parties
- collision
- wreck removal
- damage to fixed and floating objects
- fines
- omnibus rule
- Additional covers
 - specialist operations
 - obstruction of waterways
 - through transport
- inland waterways – club only covers liabilities which are generally excluded by the hull insurers

What the club does not cover

- loss of or damage to the entered ship (H&M)
- cost of repairs to the entered ship (H&M)
- salvage (H&M)
- hire/freight/demurrage/detention

What is limitation?

- *“The ability of a shipowner to limit his liability for damages caused by negligence is unique in the commercial world.....”*
- *“The concept is centuries old but its formalisation in Europe dates from the 17 century. It is justified on the grounds of public policy and convenience in that a shipowner can obtain adequate insurance cover for third party claims where his insurers can calculate their maximum exposure with reasonable certainty”*
- limits cap overall exposure in the event of a serious casualty/incident

Why should owners limit?

- CLNI is important for P&I clubs
- if no CLNI exists owners may be exposed to very high uncapped risks and unfamiliar laws
- in certain countries (e.g. France and Poland) no CLNI limitation exists
- CLNI is a limitation of liability regime which offers a consistent approach throughout the EU region – predictable scenario in case of casualty
- limitation limits maximum overall exposure in terms of financial outlay
- legal certainty as to the law applicable e.g. voyage from Austria to Slovakia only one legal regime needed
- if no limitation available then potentially large uninsurable exposure

CLNI old regime

- current regime has been in place since 1988
- Convention de Strasbourg sur la limitation de la responsabilité en navigation intérieure 4 November 1988
- entry into force September 1997
- only signatories Germany, Luxembourg, The Netherlands and Switzerland

CLNI new regime

- expand the scope of application to all European inland waterways countries
- a regime which is widely accepted by all member states of EU
- increase limits, particularly for personal injury to passengers (not less than 2 million units)
- increase limits for damages caused by dangerous goods (not less than 10 million units)
- Improve clarity in the application of limitation

- loss of life or personal injury or loss of/damage to property (including damage to harbour works, basins, waterways, locks, weirs, bridges and aids to navigation)
- claims in respect of loss resulting from delay in the carriage of cargo, passengers or their luggage
- other loss resulting from infringement of rights other than contractual rights and occurring in direct connection with the operation of the vessel or with salvage or assistance operations
- claims in respect of raising, removal, destruction or rendering harmless a vessel which is sunk, wrecked, stranded or abandoned
- claims in respect of removal, destruction of cargo of the vessel

Alternative: no limitation

- unlimited exposure legally and financially
- potentially very high insurance costs or in some cases non-commercially viable for insurers to cover
- no club cover (under rule 3.13.1) club cover may not respond in certain circumstances where no limitation of liability is available
- more uncertainty for a shipowner trading to countries without a properly regulated liability regime

CLNI underwriting considerations

- underwriters expect ship owners to act as prudent uninsureds
- unregulated environments create uncertainty
- lack of limitation – underwriters find it difficult to estimate cost of exposure to the club
- underwriters prefer to quote for their risks within a defined structure
- the increase in limits in CLNI is expected to pave the way for higher awards
- the expected increase in the cost of claims will inevitably lead to an increase in insurance costs
- improved shipping practices can help to offset the impact of increased cost of claims due to changes in legislation

How can P&I clubs assist?

- practical example:
 - M/V Barge collided on a voyage from Vienna to Bratislava
 - what are the P&I implications?
 - conflicting liability regimes (complex resolution across different legal regimes)
 - pollution
 - cargo loss
 - personal injury
 - collision liability
 - wreck removal
 - fines
 - external pressure – public relations with media and authorities
 - limit liability?

- we can help with
 - giving advice regarding claims handling, legal and technical aspects
 - appointing lawyers, surveyors, technical experts and correspondents through its recommended network where necessary
 - managing the claim from the beginning (casualty response team)
 - minimise the exposure to members
 - LOU's
 - the club employs professionally qualified staff and has experience handling a vast number of casualties of all types

- P&I can respond to a number of covered risks including cargo, pollution, personal injury, wreck removal and property damage
- there is a need to limit under the rules of the club
- the new CLNI helps with the unification of inland waterway legal regimes across the whole of Europe
- alternative to no limitation could lead to unlimited financial exposure and potentially uninsurable risks
- although the new limits are high they bring financial and legal certainty to the inland waterway business
- better to have higher limits than none at all

Contact

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