Impact of Surging Shipowner’s Liability and Compensation on P&I Insurance.

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Global shipping

- One Market
- No Barrier for the Open Competition
- International Governance under Global Regimes/Conventions
- Cycle Business: Highs and Lows,
- 90% Global Trade by Shipping
- Serious Decision on the Investment
Cycles of shipping Bubble Highs & Lows

Source: KMI, Joins.com
Recent Development on the Shipping

- Anti-Shipping Trend is Growing: More Liabilities onto the shipping.
- Up Sizing of the Ship
- Complexity of Shipping Chain-Chartering and FFA
- Pressure on Green Management on Ship’s Operation & Design.
- The Shift in the Global Shipping/Shipbuilding base from the West to the East
Risk & Insurance for Marine Adventure

- **Vessel** - Hull & Machinery — H&M
  - War & Strike — W&S
  - Insured Value - Insurance & Terms & Conditions

- **Cargo** — Cargo Insurance — CARGO INSURANCE

- **Liabilities** — P & I Insurance
  - (Marine Mutual)
  - Crew-Cargo - FIFO - ¼ RDC
  - Passenger and others
  - Oil Pollution - Wreck Removal
  - * Protection & Indemnity (P & I)

- **Terms & Conditions (Policy)**
  - Insured Value
  - Trading Limit
  - War & Strikes Insurance

- **CIF Value x 110%**
  - (Insured Value)
  - Terms and Conditions

- **Assured/Co-Assured**
  - Terms & Conditions
  - (P&I Rules)
  - Mutual or Fixed
  - Unlimited or Limited Liabilities

KMI Seminars in USA, December, 2010
bspark@kpiclub.or.kr
Global Marine Insurance Premium by line of Business

Total reported: 22.9 USD billion

Source: IUMI, report 2010

Total estimated including not reported: 23.6 USD billion
The Shipowners’ Liabilities Covered by P&I Insurance

P&I (Protection & Indemnity Insurance) provided liability cover

95% of the world’s ocean going tonnage entered with P&I Clubs.

Providing liability cover for the owners, charterers, incidental to owning, use and operating of the ships.

Each club controlled by each club members. + 13 Group P&I Clubs Cartel-IGA
Role of P&I Clubs
Liability Cover and Financial G’tee

• For the entered tankers: CLC, OPA 1990 (Cert. of Financial Responsibility)

• For entered non-tankers: Bunker Convention,

• For the entered Ships - HNS


• Rotterdam Rules
### Surge of Shipowners’ Liabilities

<table>
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<tr>
<th></th>
<th></th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>A</td>
<td>by the Convention-driven</td>
<td></td>
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<tr>
<td>B</td>
<td>by the Technology- advances: wharf/wreck recovery from the deeper seas</td>
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<td>C</td>
<td>by the Increase of the costs/expenses relating to the liabilities</td>
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<tr>
<td>D</td>
<td>by the Upsizing of ships</td>
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<tr>
<td>E</td>
<td>by Human elements</td>
<td></td>
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<tr>
<td>F</td>
<td>by the legal Precedents against the Shipping</td>
<td></td>
</tr>
<tr>
<td>G</td>
<td>Curtail/deprive an exemption clause from liabilities.</td>
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## Limitation of Liabilities & Int’l Legal Regimes for the Maritime Claims

<table>
<thead>
<tr>
<th>Category</th>
<th>Regulations/Conventions</th>
</tr>
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</table>
| **Property/Personal Injury/death** | • LLMC1976  
• Protocol 1996  
• Wreck Removal Convention 2007 |
| **Oil Pollution**               | • CLC1992  
• Bunker Convention 2001  
• HNS Convention 1996 |
| ***Environment and Safety**     | • Ship Recycling Convention, 2009  
• Ballast Water Convention, 2004 |
| **Passenger**                   | • Athens Convention 1974, Protocol 1996 |
| **Shipping/Sea Transportation** | • **Hague Visby Rule 1968** → **Hamburg Rule 1978** → **Rotterdam Rule 2009** |
Compulsory Insurance for the Liabilities in the Int’l conventions

- Maintain *compulsory insurance* or financial security.
- Allow the claimant to *bring direct action against the insurers* for compensation.
- The Convention provides for a ship owner to be “*strictly liable*” for damage caused by ....

- CLC,1969)+1971 IOPC(Fund)
- LLMC 1976, 1996
- Bunker Convention,2001
- NHS (Convention On Hazardous and Noxious Substances) Convention,1996
- Wreck Removal Convention,2007
Conventions creek

- LLMC Protocol, 1999
- CLC 1992 + Supplementary FC, 2003
- Wreck Removal Convention 2007
- Rotterdam Rules 2009
- Bunker Convention 2001 (Nov. 21, 2008)
## LLMC 1976, 1996 Protocol
13 May 2004 in force (Limitation of Liability for Maritime Claims)

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<th>GRT</th>
<th>Non-Passenger</th>
<th>Property Damage</th>
<th>Passenger</th>
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<td></td>
<td>76LLMC</td>
<td>96LLMC</td>
<td>76LLMC</td>
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<td>Less</td>
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<td>501~2000</td>
<td>+500/ton (1,583,000 SDR)</td>
<td>2,000,000 (SDR)</td>
<td>+167/ton (5,093,500 SDR)</td>
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<td>+500/ton (1,583,000 SDR)</td>
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<tr>
<td>2,001~3,000</td>
<td>+333/ton (10,574,000 SDR)</td>
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<td>+167/ton (5,093,500 SDR)</td>
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<tr>
<td>3,001~30,000</td>
<td>+250/ton (20,574,000 SDR)</td>
<td>+600/ton (48,400,000 SDR)</td>
<td>+125/ton (10,093,500 SDR)</td>
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<tr>
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<td>+250/ton (20,574,000 SDR)</td>
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<tr>
<td>OVER 70,000</td>
<td>+167/ton (SDR)</td>
<td>+400/ton (SDR)</td>
<td>+125/ton (10,093,500 SDR)</td>
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<tr>
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<td>+167/ton (SDR)</td>
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</table>

*1,000 Passenger 25 mill SDR → 175 mill SDR
Liability on Oil Pollution: CLC & IOPC(FC)

**1992 Civil Liability Convention**

**1992 Fund Convention**

**2003 Supplementary Fund Protocol**

**Supplementary Fund**

**1992 Fund:** IOPC Fund

**Insurers/P&I Clubs**

**Shipowners**

**Oil receivers after sea transport**

**Oil receivers after sea transport**

**THIRD TIER**

**SECOND TIER**

**FIRST TIER**
Max. Amounts of Compensation under the Convention
US$ Million, as at Feb. 2009 / Source: ITOPF

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<td>1118</td>
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</table>
Wreck Removal Convention, 2007

- Permits state party to take measures on the wreck within EEZ.
- Limit Liability pursuant to any applicable regime.
  (No specific Reference)
- Liabilities in conflict with other IMO conventions, such as CLC, HNS and Bunker Oil Pollution
- LLMC 1976, exclude rights of limit on wreck removal.
- Compulsory Insurance over 300 grt
- SCOPIC( Special Compensation of P&I Club)
4,419 teu MSC Napoli (62,000 dwt),

- How much costs for the wreck removal/Salvage operation??
- 30 months, $149 mill??
- Towed-Beached-Oil Spilt-Oil Removal- Salvage & Clean up Operation-Break up of the Wreck-Disposal.
## P&I Costs of wreck Removal

<table>
<thead>
<tr>
<th>PY</th>
<th>Vessel Name</th>
<th>Type</th>
<th>Build</th>
<th>G/T</th>
<th>Location</th>
<th>Date</th>
<th>Loss Amount (USD)</th>
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<tr>
<td>2006</td>
<td>Rokia Delmas</td>
<td>Container Ro-Ro Cargo Ship</td>
<td>1985</td>
<td>32924</td>
<td>France La Palilice 46-08N,01-25W</td>
<td>2006.10.24</td>
<td>75m</td>
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<tr>
<td>2006</td>
<td>MSC Napoli</td>
<td>4,419 ton F. Container</td>
<td>1991</td>
<td>53409</td>
<td>English Channel</td>
<td>2007.01.18</td>
<td>149m</td>
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<tr>
<td>2007</td>
<td>New Flame</td>
<td>Bulk carrier</td>
<td>1994</td>
<td>26824</td>
<td>1km south of Europa Point, Gibraltar</td>
<td>2007.08.12</td>
<td>135m</td>
</tr>
<tr>
<td>2008</td>
<td>Fedra</td>
<td>Bulk Carrier</td>
<td>1984</td>
<td>35886</td>
<td>Europa Point, Gibraltar</td>
<td>2008.10.10</td>
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Rotterdam Rule, 2009
The Convention on Contracts for the International Carrying of Goods Wholly or Partly by Sea.

- 1924 Hague Rule
  1968 Hague Visby Rule
  **1978 Hamburg Rule**
- **UNCITRAL**: The Convention on Contracts for the International Carrying of Goods Wholly or Partly by Sea.
- Signing Ceremony was held in Sept., 2009 in Rotterdam
- **85 YEARS’ PRACTICES since 1924**
- Hot debating is still ongoing:
  Whether the International Leading Ship owners’/Advanced Shipping Nations would support. – The devil we know is better than the devil we don’t know/20 countries signed/Yet rectified?
Hague Visby Rules vs the Rotterdam Rule, 2009

- Requirement of Due Diligence for Seaworthiness during the voyage. (from -- before and at the commencement of the voyage)
- Significant Increase of the Package Limitation (875 SDR per Package or, 3 SDR/Kg, whichever the greater). (from --- 666.67 SDR/2 SDR/Kg)
- Nautical Error/Negligence Exception.
- Time Bar to two years. (--- from One Year)
Potential Loss/Liability of 14,500TEU??

Worst case scenario (based on ‘Emma Maersk’/Munich Re figures)

- Cargo (14,500 TEU X USD100,000) = USD 1,450,000,000
- Containers (14,500 TEU X USD4,000) = USD 58,000,000
- Hull = USD 145,000,000
- P&I (eg. Life/pollution/salvage) = USD 500,000,000

Total Potential loss = USD 2,153,000,000
Impact on P&I Costs?

• Claims Pressure--- Unstable Financial Position

• More Free Reserve required

• Competition on the new building ships ratings to avert Churn effect

• Strong Cartel - Restrict on the free move of the membership: Release calls
What impact on the P&I Management?

- Non-profit mutual operation
- O/s and paid claims + reinsurance costs + Pool claims + management expenses = P&I Calls + Free Reserves + Investment income
- 13 Clubs’ Pooling and Reinsurance Scheme
- Increase of Claims Payment:
  - Increased crew wage & Cargo Value
  - Liability Claims generated from the New Conventions/Legal case.
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<td>2.117</td>
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</tbody>
</table>

KMI Seminars in USA, December, 2010
bspark@kpiclub.or.kr
General Increase
(a mandatory Increase in P&I Ratings)

• 2000-2010 (11 years) : 333.6% of accumulated increase of the P&I Ratings : av. Increase per a year : 21%

• 2005-2009 (5 years) : 168% (accumulative increase) : av. Increase per a year: 33.6%
IG Group P&I Clubs’
Reinsurance/Pooling Scheme

Protection and Indemnity

- Collective Overspill Protection
  - One Reinstatement

- Third General Excess Unlimited Reinstatements

- Second General Excess Unlimited Reinstatements

- First General Excess Unlimited Reinstatements
  - Coinsurance 25% Reinsured by Hydra

Oil Pollution

- Second General Excess Unlimited Reinstatements

- First General Excess Unlimited Reinstatements
  - Coinsurance 25% Reinsured by Hydra

Protection and Indemnity and Oil Pollution

- First General Excess Unlimited Reinstatements
  - Coinsurance 25% Reinsured by Hydra

International Group of P and I Associations
General Excess of Loss Reinsurance Contract Structure
Owned and Chartered Entries
(including Overspill Protection, Hydra Participation, Pooling and Individual Club Retentions)
12 months at Noon GMT 20th February, 2010

Owned Entries

- US$ 20m
- US$ 50 m
- US$ 8m
  - Pool – Reinsured by Hydra
  - Individual Club Retention

Chartered Entries

- US$ 350m
- US$ 300m
  - Primary Charterers RI
  - Individual Club Retention

KMI Seminars in USA,
December, 2010
bspark@kpiclub.or.kr
Pooling Agreement by the 13 IG P&I Clubs

- **Share Claims**: Excess USD 8 mill upto USD 30 mill (max cover 22 mill)

- **Group Reinsurance**: excess USD 50 mill upto USD 2.05 bil.

- **Contribution Formula by the 13 Clubs**:
  - 1/3 GRT,
  - 1/3 Call,
  - 1/3 Pool Loss Records

- **Contributory Rtes**: 4~14% by each club

![Diagram showing the pooling agreement structure with details on owned entries, pool, and reinsurance sections.]
IG Clubs’ Pooling Losses (2004-2009)
Valued at 20 Feb. 2009 data: Elysian Insurance

Pooling Retention: $50 million, February 2004 to date

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<tr>
<th>Policy Year</th>
<th>Number</th>
<th>Retention as below</th>
<th>Lower Pool</th>
<th>Higher Pool* $20 xs 30m</th>
<th>Total $50m</th>
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<td>$7m</td>
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<td>2008-09</td>
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<td>72.6</td>
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* Reinsured by Hydra since 2005-6
## IG P&I CLUB (Policy year) – Analysis (2005-2009)

(Data : www.elysian.com)

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<th>(Unit : USD mil)</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>Growth(%)</th>
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<td>2,594</td>
<td>2,763</td>
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<td>394</td>
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<td>497</td>
<td>129</td>
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<td>Claims</td>
<td>1,814</td>
<td>1,788</td>
<td>2,189</td>
<td>2,190</td>
<td>2,158</td>
<td>119</td>
</tr>
<tr>
<td>Expenses</td>
<td>296</td>
<td>311</td>
<td>252</td>
<td>305</td>
<td>316</td>
<td>107</td>
</tr>
<tr>
<td>Underwriting Result</td>
<td>-268</td>
<td>-141</td>
<td>-292</td>
<td>-249</td>
<td>-28</td>
<td>(-978 mill)</td>
</tr>
<tr>
<td>Investment Income</td>
<td>214</td>
<td>233</td>
<td>340</td>
<td>225</td>
<td>-336</td>
<td>-</td>
</tr>
<tr>
<td>Overall Result</td>
<td>-53</td>
<td>91</td>
<td>48</td>
<td>-24</td>
<td>-364</td>
<td>(-302 mill)</td>
</tr>
<tr>
<td>G/T</td>
<td>586</td>
<td>622</td>
<td>669</td>
<td>717</td>
<td>766</td>
<td>131</td>
</tr>
<tr>
<td>F.R</td>
<td>2,022</td>
<td>2,186</td>
<td>2,468</td>
<td>2,513</td>
<td>2,360</td>
<td>117</td>
</tr>
<tr>
<td>G/I %</td>
<td>8.8</td>
<td>86.5</td>
<td>6.7</td>
<td>16.4</td>
<td>16.5</td>
<td></td>
</tr>
</tbody>
</table>

(Korea P&I)

KMI Seminars in USA ,
December, 2010
13 IG P&I Clubs-U/W results 2005-2009

source: Elysian-insurance (Unit: US $.million)

• Growth of **Call Income**: + 718 mill (+132%)
  
  **143.6 mill/a year, av. +26.4% per a year**

• **U/W Results**: -978 mill, av. -195 mill/year

• **Overall Results**: -302 mill, av. -60 mill/year

• Claims: +113 mill, (+129%) av. 22.6 mill/year, +25%/year

• **General Increase**: 2005-2009: av. 33.6% per year or accumulated +168% Increase av. 21%/year

  **2000-2010**: av. 21% per year or accumulated +336% Increase (av. 30.5%/year)
Impact on the Liability (P&I) Insurance

- Continued U/W Losses

- PY 2008: Six Clubs’ Un-forecasted Cash Call: more than about US$700 million.

- Continued Increase of Premium (Call)

- Burden of Reinsurance Costs: Cruise $250,000~350,000/year/ship, VLCC $250,000, Aframax $150,000 (US Poll. Surchage $100,000 extra)
Prospects
On the Liability (P&I) insurance

- Much More New Convention to emerge
- Less Exemption / Immunity to be granted for the Shipowners.
  →
- Harsh Claims handling by the P&I Clubs.
- More retention/deductibles demanded by the Club/Pool
  →
- More Burden on the Shipowners Liability.
- Increase of P&I Costs
  (General Increase Supplementary Call)
Solutions for the less exposure
On the Maritime Liabilities

A. No patent Solutions to Stop the Maritime Liability Claims.
B. Be alert on the Evolution of the Int’l Regimes,
C. Keeping up Precedents and Change of Regulations.
D. Enhance the integrity of the internal Risk Management
E. Lobbying on the adverse legislation against the ship owners interests (by the Clubs)
F. Learn how to wisely deal such Liability Matters via P & I Clubs and other measures.
G. Improve your Terms & Conditions of the Insurance.
Q&A

Many thanks for your attention!!
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