

# Transition of Shipowners' Liability Laws and Changes of P. & I. Clubs in the U. K. (Part IV)

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## I. Preface

In my preceding treatises (Parts I to III-2) on the captioned subject, the changes of P. & I. Clubs keeping step with the transition of shipowners' liability laws have been discussed with the main risks covered by P. & I. Clubs as the key subject.

At present, the leading P. & I. Clubs in the world have formed the International Group and have made a reinsurance agreement (called Pooling Agreement) among them in order to distribute risks which have become enormous rapidly in recent years. In order to implement the above Agreement, it is necessary to standardize the risks covered by the member clubs of the Pooling Agreement, and, therefore, the members' statutes or memorandum and rules are nearly the same in substance, though different from one another in their forms and expressions.

As the conclusion of the series of my treatises on the captioned subject, the present situation of P. & I. Clubs will be outlined in this treatise (Part IV) mainly on the base of the memorandum, articles of association and P. & I. Rules (hereinafter referred to as "the Rules") of The Britannia Steam Ship Insurance Association Limited (hereinafter referred to as "the Britannia Club").

## II. Organization of P. & I. Clubs

### 1. Legal Character of P. & I. Clubs

Though the British P. & I. Associations are generally called clubs, they are regular companies under the British Companies Act and are divided into two groups, i.e. companies limited by guarantee and unlimited companies. Most of them including the Britannia Club belong to the former group.

The reason why most of them are incorporated as companies limited by guarantee seems to be that such form of company is suitable to the non-profit enterprise such as P. & I. Clubs and to the companies themselves, in place of their individual members, being the parties to lawsuits.

The insurers are, therefore, generally not individual members of clubs as before but clubs themselves and the cause of action by a member of a club as an assured is not against other members of the club but against the club itself.

In this connection, the provisions of subsection(1) of section 85 of the Marine Insurance Act 1906 concerning mutual insurance, which read as follows:

“Where two or more persons mutually agree to insure each other against marine losses, there is said to be a mutual insurance.”

show the substance of legal action, but they do not meet the present situation of P. & I. Club, because, as a matter of fact, all mutual insurance associations shall be incorporations and as a result, the assureds are protected not by individual members but by incorporations themselves.

## 2. Classes of P. & I. Clubs other than Class of Protection and Indemnity

In addition to the Class of Protection and Indemnity which is the main class, P. & I. Clubs have generally one or more of other classes such as (1) Freight, Demurrage and Defence, (2) War Risks, (3) Strikes, (4) Through–Transport, (5) Loss of Hire, (6) Hull and Machinery Risks, (7) Insurance for Shipbrokers and Agents and (8) Insurance for Charterers. They are also divided into local small clubs (such as fishing vessels clubs) and national clubs.

These other classes are outlined as below.

### (1) Class of Freight, Demurrage and Defence

This class is generally called F.D.D. or Defence Cover and covers legal expenses incurred by members of a club in asserting their rights or defending themselves from claims filed against entered ships. The title of this cover, i.e. F.D.D. preserves vestige of old days when losses of freights and demurrage were covered in this class, but the title of Defence Cover is more appropriate at present.

### (2) Class of War Risks

This class covers not only loss of or damage to hull, machinery and disbursements caused by war risks excluded by the F.C. & S. Clause in ordinary hull policy but P. & I. liabilities against crew of the entered ship caused by war risks. Incidentally, in the U.K., while war risks on British vessels are covered by this class, those on other vessels are covered by ordinary insurance market.

### (3) Class of Strikes

This class covers shipowners and charterers against loss of running expenses and charter hires caused by delay in voyage in consequence of strikes, etc.

### (4) Class of Through–Transport

This class covers ocean carriers' liabilities throughout combined transport by sea, land and/or air.

### (5) Class of Loss of Hire

This class covers shipowners against loss of hire or loss of time caused by marine perils.

### (6) Class of Hull and Machinery Risks

This class writes ordinary hull insurance, and at present, in the U. K., The British Marine Mutual Insurance Association Limited and The Marine Shipping Mutual Insurance Company Limited (in Newcastle–upon–Tyne) write ordinary hull insurance on a mutual base. The Class 1 of the Britannia Club which is now blank is a vestige of old days when the above Club wrote this class. The Swedish Club has also this class.

### (7) Class of insurance for Shipbrokers and Agents

The purpose of this class is to protect the interests of shipbrokers and shipping agents, and the representative club having this class is The Chartered & International Shipbrokers' and Agents' P. & I. Club Limited (the Cisbaclub).

### (8) Class of Insurance for Charterers

Charterers may be covered either by way of entering the Class of Protection and Indemnity or by way of entering the above specialist club.

According to Articles 1 and 6 of the Articles of Association of the Britannia Club, the Club has following four classes:

Class 3 Protection and Indemnity risks

Class 4 War risks

Class 5 Strike risks (discontinued as from February 20, 1988)

Class 6 Defence risks

(Class 1 is blank as stated before, and Class 2 which is also blank seems to have been "Freight risks"—see "Brief History of the Development of Tindall, Riley & Company (1989).")

Incidentally, Tindall, Riley & Co. which is the management company of the Britannia Club manages also the Cisbaclub as stated before, The Wren Insurance Association Limited which covers architects' professional liability for error or omission (the word "Wren" prefixed to the name of the association was derived from "Christopher Wren", famous architect in the 17th century, who designed St. Paul's Cathedral and many other buildings in the City of London.) and The Griffin Insurance Association Limited which covers insurance brokers' professional liabilities for error or omission ("Griffin" prefixed to the name of the association is a mythical animal with the body and hind legs of a lion, and the head and wings of an eagle, and is used in the mark of the City of London.).

### 3. Organization and Management of P. & I. Club

#### (a) Types of management of P. & I. Club

There are two types of management of P. & I. Club, that is, (i) the type of entrusting daily works with a separate management company and (ii) the type of doing daily works by a club's own executive office, and most of the British leading clubs adopt the former type. The management company is a stock company or a partnership, and in the case of the Britannia Club, Tindall, Riley & Co. being a partnership has been managing the club since the establishment of the club's predecessor, The Shipowners' Mutual Protection Society.

#### (b) General meeting of P. & I. Club

Irrespective of the type of management and the organization of the management company as stated in (a) above, every P. & I. Club has general meeting as the supreme voting organ, which is divided into annual general meeting and extraordinary general meeting.

The annual general meeting is held once every year, and it is provided in Article 21 of the Articles of Association of the Britannia Club that the period between the date of one annual general meeting and that of the next shall not exceed fifteen months. An extraordinary general meeting is convened in case of urgent necessity of resolution of general meeting. A separate general meeting of members of any class is also convened whenever the committee of directors may think fit or on signed requisition in writing of not less than twenty-five members of the class in question (Article 45 of the Articles of Association of the Britannia Club).

The general meeting has, as the supreme voting organ, the following powers:

- (1) to decide on the adoption of the Annual Report and Accounts,
- (2) to elect the members of the committee of directors,
- (3) to elect auditors,
- (4) to amend the Rules of the club,
- (5) to decide on the matters proposed to the general meeting by the committee of directors,
- (6) to determine the Articles of the club,
- (7) to decide on the charge of premiums, the levy of contributions and distribution of surplus,
- (8) to determine the remunerations for the directors, and
- (9) to decide on dissolution of the club or amalgamation of the club with any other club.

As the liability of the club is unlimited, the voting rights of the members of the club at a general meeting are allocated in proportion not to the aggregate liability of the club for each member but to the total gross registered tonnage of all entered ships of each member. In order, however, to prevent improper control of the club by a small number of the members who own big fleets, most clubs adopt some modified allocation method.

(c) Committee of directors of P. & I. Club

The directors are generally elected at an annual general meeting from among the members of the club and, in the case of corporation members, their directors or officers.

The number of directors varies according to the clubs. In the case of the Britannia Club, it is provided in Article 52 of its Articles of Association that the number of directors shall not be less than five not more than twenty-five, and in 1990 it was twenty-three including the Chairman.

The functions of the committee of directors are generally as follows:

- (1) to admit claims filed by the members,
- (2) to settle disputes between the club and the members,
- (3) to determine the amounts of premiums and the times of payment thereof,
- (4) to arrange reinsurance contracts,
- (5) to determine the policy for administration of the club's fund,
- (6) to employ or dismiss officers of the club,
- (7) to determine the Annual Report and Accounts,
- (8) to determine the dates of beginning and termination of the policy year,
- (9) to determine the methods of using reserves,
- (10) to propose to the general meeting for amendments to the Rules of the club, and
- (11) to determine the remunerations for the officers of the club.

The committee of directors usually entrusts many of its functions (except application of the Omnibus Rule which provides that the committee of directors is entitled to determine that cover should be provided for a particular liability or loss which falls within the spirit, but not the wording, of the Rules of the club) with the management company, or in the case of a club which has no such company, with executive committee of directors or managing director.

(d) Insurance contracts with the club

The persons who can apply the club for insurance are limited to its members, and not only shipowners but managing owners of ships, ship's operators and charterers are eligible for the members.

The insurance contract is made by application by a person eligible for the member for entering the club a certain tonnage of his ship or ships and acceptance thereof by the club. The application is made by filling the following matters in the application form:

- (1) the name of the ship
- (2) the nationality of the ship
- (3) the port of registry of the ship
- (4) the age of the ship
- (5) the type of the ship
- (6) the registered gross tonnage of the ship
- (7) the tonnage to be entered
- (8) the name of the applicant
- (9) the kind of the applicant (shipowner, ship's operator, etc.)
- (10) the address of the applicant
- (11) whether the applicant is covered by the Defence Cover
- (12) the class of the ship and the relevant classification society
- (13) the geographical area over which the ship trades
- (14) the date of the commencement of the insurance period
- (15) the nationalities of the captain and crew
- (16) the names and addresses of the managers, agents, operators and shipbrokers
- (17) the particulars of hull insurance effected on the ship.

Unless the application form is filled exactly and correctly, it may constitute a breach of the applicant's duty of disclosure.

The club (actually the management company of the club) examines the applications and may refuse to accept an application without stating grounds therefor. If the application is accepted, the applicant is registered in the members list, and the Certificate of Entry and the Statutes, Rules, etc., which correspond respectively to the policy and the general conditions of ordinary marine insurance, are delivered to him.

#### (e) Risks covered by the Class of Protection and Indemnity

As stated before, the risks covered by the member clubs of the International Group are substantially the same. For an example, Rule 19 of the Rules of the Class of Protection and Indemnity of the Britannia Club provides for the risks covered by that class. As the quotation of the full text of the above Rule duplicates mostly what were mentioned in my preceding treatises (Parts I to III-2) and the above Rule is very long, only the titles of the paragraphs of above Rule are quoted below.

### III Risks Covered

#### Rule 19 Risks Covered

- 19 (1) **Liabilities in respect of Seamen**
- 19 (2) **Liabilities in respect of Passengers**
- 19 (3) **Liabilities in respect of Supernumeraries**
- 19 (4) **Liabilities in respect of illness or injury or death of third parties**
- 19 (5) **Liabilities in respect of stowaways or persons saved at sea**
- 19 (6) **Deviation**
- 19 (7) **Repatriation**
- 19 (8) **Life Salvage**
- 19 (9) **Liabilities Arising from Collisions**
- 19 (10) **Damage to Property**
- 19 (11) **Non-Contact Damage to Ships**
- 19 (12) **Pollution**
- 19 (13) **Removal of Wreck**
- 19 (14) **Towage**
- 19 (15) **Contracts of Indemnity or Guarantee**
- 19 (16) **Quarantine**
- 19 (17) **Responsibilities in Respect of Cargo**
- 19 (18) **General Average**
- 19 (19) **Fines**
- 19 (20) **Legal Costs, Sue and Labour**
- 19 (21) **Risks Incidental to Ship Owning**
- 19 (22) **Special Cover**
- 19 (23) **Special Cover for Salvors**
- 19 (24) **Special Cover for Containers**
- 19 (25) **Special Cover for Time Charterers**

(f) Risks excluded in the Class of Protection and Indemnity

The risks excluded in the Class of Protection and Indemnity of the leading clubs are also

standardized. For an example, Rules 20 to 29 of the Rules of the Class of Protection and Indemnity of the Britannia Club which provide for exclusions, limitations and warranties are quoted below.

#### **IV Exclusions, Limitations and Warranties**

##### **Rule 20 RISKS SPECIFICALLY EXCLUDED**

There shall be no recovery from the Association, except as otherwise provided in this Rule, in respect of:

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| <b>Damage to the Entered Ship 20(1)</b>  | Loss of, or damage to, the Entered Ship or any part thereof other than such loss or damage as may be covered under Rule 19 (25) (cover for time charterers) or losses as a result of the confiscation of the Entered Ship as may be agreed to be recoverable by the Committee in the exercise of its discretion under proviso (iii) to Rule 19 (19) (fines).  |
| <b>Equipment 20(2)</b>                   | Loss of, or damage to, any equipment on board the Entered Ship or any Containers, lashings, stores or fuel thereon to the extent that the same are owned or leased by the Member or by any Associated Company of the Member or by any company under the same management as the Member.  |
| <b>Repairs to the Entered Ship 20(3)</b> | The cost of repairs to the Entered Ship or of cleaning any part of the Entered Ship, or any charges or expenses in connection therewith, other than such as may be covered under Rule 19 (12) (pollution), or Rule 19(18)(general average), or specifically covered by agreement in writing under Rule 19 (25) (cover for time charterers).   |
| <b>Cargo and freight 20(4)</b>           | Loss of or damage to, or liabilities arising in respect of, cargo intended to be, or being, or having been carried in the Entered Ship or loss of freight or hire relating to the Entered Ship, or any proportion thereof, unless such loss, damage or liability forms part of the measure of damages or expenditure paid by the Member and recoverable under Rule 19 (9) (C)(collision liability to cargo), Rule 19 (17) (cargo) or Rule 19(18) (B) (general average). |
| <b>Pollution 20(5)</b>                   | Losses occasioned by pollution other than in accordance with Rule 19 (12).  |
| <b>Salvage 20(6)</b>                     | Salvage of an Entered Ship or services in the nature of salvage provided to an Entered Ship and any costs and expenses in connection therewith other than such as may be covered under Rule 19 (8)(life salvage), Rule 19 (12) (E)(pollution) or Rule 19 (18) (general average).  |
| <b>Charter parties 20(7)</b>             | Loss arising out of breach of or cancellation of a charter or other engagement of an Entered Ship, other than such as may relate to cargo liabilities under Rule 19 (17), General Average under Rule 19 (18), losses of charterer's property on board the Entered Ship under Rule 19(10) (F) or damage to or loss of the Entered Ship   |

under Rule 19(25) (B).

<b>Bad debts 20(8)</b>	Loss arising out of irrecoverable debts or out of the insolvency of any person or out of the fraud of agents.
<b>Demurrage 20(9) and delay</b>	Claims relating to demurrage on or detention of an Entered Ship.
<b>Towage and Salvage 20(10)</b>	Liabilities arising out of the towage or salvage by an Entered Ship of any other ship or object save where such towage or salvage was necessary for the purpose of saving or attempting to save life at sea, unless such liabilities are covered under the terms of Rule 19 (14) (B) (towage by an Entered Ship) or Rule 19 (23)(special cover for salvors).

PROVIDED ALWAYS THAT:

The foregoing exceptions shall not apply to losses, costs and expenses incurred under Rule 19 (20) either to avoid or reduce a liability or expenditure or by the special direction of the Association.

#### **RULE 21 EXCLUSION OF CERTAIN SPECIALIST RISKS**

There shall be no recovery from the Association in respect of any claim relating to liabilities, costs and expenses of an Entered Ship which is:

<b>Salvage tugs 21(1)</b>	A salvage tug or other Ship used or intended to be used for salvage operations, when the claim arises as a result of any salvage service or attempted salvage service, unless cover has been specifically extended for such operations under Rule 19(23).
<b>Drilling ships 21(2)</b>	Used for the operations of drilling, core sampling, oil production or gas production, when the claim arises out of those operations.
<b>Dredgers 21(3)</b>	A dredger, when the claim arises out of dredging operations or the depositing of spoil.
<b>Ancillary craft 21(4)</b>	Used for the operations of pile driving, pipe laying, cable laying or blasting when the claim arises out of those operations.
<b>Waste ships 21(5)</b>	Used for waste incineration or waste disposal operations, when the claim arises out of those operations.
<b>Underwater Operations 21(6)</b>	Used for or in connection with the operation of submarines, underwater ships or equipment, or the operation of professional or commercial divers when the claim arises out of those operations; unless cover has been extended in respect of such operations under the terms of Rule 19(23)(special cover for salvors).

PROVIDED ALWAYS THAT:

Special cover may be agreed between the Member and the Managers under Rule 7.

**RULE 22 IMPRUDENT TRADING**

The Association shall not insure a Member against any liabilities, costs or expenses arising out of or consequent upon an Entered Ship carrying contraband, blockade running, or being employed in an unlawful trade, or performing any voyage or being employed in any trade if the Committee having regard to all the circumstances shall be of the opinion that the nature of the carriage, trade or voyage in which the Ship was engaged was imprudent, unsafe, unduly hazardous or improper.

**RULE 23 CARRIAGE OF RADIOACTIVE MATERIALS**

The Association shall not insure a Member against any liabilities, costs or expenses arising out of or in consequence of the emission of ionising radiations from, or the toxic explosive or other hazardous properties of, nuclear fuels or radioactive products or waste carried in an Entered Ship with the exception of radio isotopes which are used or intended to be used for any industrial, commercial, agricultural, medical or scientific purposes and which are carried as cargo, and with such further exceptions and on such conditions as the Committee shall approve.

**RULE 24 EXCLUSION OF RISKS COVERED BY HULL POLICIES**

Unless otherwise agreed in writing, the Association shall not, except only as provided by Rule 19 (9) (A) and (B) (collision), Rule 19 (10) (B)(damage to property), Rule 19 (18) (A)(general average) and Rule 19 (25) (cover for time charterers), insure a Member to any extent whatsoever against any of the risks, liabilities, costs or expenses against which the Member would be insured if the Entered Ship were fully insured under Hull Policies on terms not less wide than those of the Lloyd's Marine Policy MAR form 1/1/82 with the Institute Time Clauses Hulls 1/10/83 attached and with no deductible or franchise applicable to claims under those policies.

**RULE 25 EXCLUSION OF WAR RISKS**

Unless otherwise agreed in writing there shall be no recovery from the Association against any liabilities, costs or expenses when such liability arises or cost or expense is incurred whilst the Entered Ship is within a Prohibited Area as a result of:

(1) An incident caused by war, civil war, revolution, rebellion, insurrection or civil strife arising therefrom, or any hostile act by or against a belligerent power;

(2) Capture, seizure, arrest, restraint or detainment (barratry and piracy excepted) and the consequences thereof or any attempt thereat;

(3) An incident caused by mines, torpedoes, bombs, rockets, shells, explosives or other similar weapons of war(save for those liabilities, costs or expenses which arise solely by reason of the transport of

any such weapons whether on board the Entered Ship or not).

*Provided always* that this exclusion shall not apply to the use of such weapons, either as a result of government order or with the agreement of the Managers or the Committee, where the reason for such use is the avoidance or mitigation of liabilities, costs or expenses which would otherwise fall within the cover given by the Association.

**PROVIDED ALWAYS THAT:**

The Prohibited Area:

(i) may at any time and from time to time be changed by the Association giving seven days notice of such change;

(ii) shall automatically extend to all areas, ports and places upon the hostile detonation of a nuclear device, the outbreak of war between any of the following countries United Kingdom, United States of America, France, The Union of Soviet Socialist Republics, The People's Republic of China, or upon requisition either for title or use of the Entered Ship, and there shall be no cover in respect of the event giving rise to such automatic extension.

**RULE 26 OTHER INSURANCES**

Where a Member is insured elsewhere in any manner whatsoever against any of the liabilities, costs or expenses which would otherwise have been recoverable under these Rules, there shall be no contribution by the Association to such liabilities, costs or expenses on the basis of any terms in such other insurance excluding or limiting liability on the grounds of double insurance or otherwise.

*Provided always* that this Rule may be waived either:

- (i) by prior agreement with the Association in writing or,
- (ii) if the Committee in its discretion so decides.

**RULE 27 LIMITATION OF LIABILITY**

**27(1)** Subject to these Rules and to any special terms and conditions upon which a Ship may be entered, the Association insures the liability of a Member in respect of an Entered Ship as this liability may ultimately be determined and fixed by law, including any laws pertaining to limitation of shipowners' liability. The Association shall in no circumstances be liable for any sum in excess of such legal liability. If the Ship is entered for less than her Full Tonnage the liability of the Association shall be limited to the proportion that the Entered Tonnage bears to the Full Tonnage.

**Charterers 27 (2)**

Where a Ship is entered by or on behalf of a charterer other than a demise charterer, then the cover provided by the Association in respect of any claim by such a charterer shall be restricted to the amount to which, in the opinion of the Committee, such a charterer could have limited his liability for the claim if he had

been the registered owner of that Ship and had sought and not been denied the right to limit, unless the Managers shall before entry have agreed in writing to an increase in the Association's liability.

**RULE 28 CLASSIFICATION AND STATUTORY REQUIREMENTS**

**Classification 28(1)** Every Member warrants that every Ship entered by him for insurance in this Class is and shall remain throughout the period of entry fully classed with a classification society approved by the Managers and that throughout such period the Member will fully and timely comply with all the rules, recommendations and requirements of such society relating to the Entered Ship. *Provided always* that the Committee may in its discretion waive compliance with this warranty for such periods and upon such terms as it thinks fit.

**Change of Classification 28(2)** Any change of classification or classification society shall forthwith be notified to the Managers in writing, together with all outstanding recommendations, requirements or restrictions specified by any classification society as at the date of such change.

**Information from the Member 28(3)** Where required by the Managers it is a condition precedent to the Member's right of recovery from the Association that the Member shall first have provided to them an assurance that the Entered Ship's class has been maintained, as well as a list of recommendations, requirements or restrictions specified by any classification society and where any periodic docking survey or any special survey of hull, machinery or equipment is overdue, a statement as to whether or not an extension has been permitted by the classification society. If the Managers so require, such information shall be certified by the classification society.

**Statutory requirements 28(4)** Every Member shall comply with all the statutory requirements of the state of the ship's flag relating to the construction, adaptation, condition, fitment, equipment and manning of the Entered Ship and must at all times maintain the validity of such statutory certificates as are issued by or on behalf of the state of the ship's flag.

**Information from Classification Society 28(5)** Should the Association wish to approach the classification society direct for information, the Member will provide the necessary authorisation.

**RULE 29 BYE—LAWS**

**29(1)** The Committee shall have power to pass bye-laws ordering and prescribing the conditions and/or the form of contracts of carriage generally, or for use in any particular trade, or for any particular port or place.

**Recommendations 29(2)** The Committee may also recommend the use of any particular form of contract of carriage in any particular trade. Members whose Ships are engaged in such trades shall endeavour to use the

appropriate form of contract of carriage when the circumstances of the fixture or engagement of such Ships permit.

**Notice 29(3)**

Notice shall be sent by the Managers to all Members upon the passing of any such bye-law or issue of such recommendation. The bye-laws or recommendation shall come into operation on the date stated in the notice and shall thereupon be assumed to be incorporated in these Rules and shall be included in, or with, every copy of these Rules issued by the Association as soon as may be conveniently possible. If a Member shall commit a breach of such bye-law the Committee may reject or reduce any claim made by the Member to the extent to which it would not have arisen if the Member had complied with the bye-law and the burden of proving in each case that the claim (or portion thereof) could not have been avoided by such a compliance shall be on the Member. The Committee may further impose such terms upon the Member as it may think fit as a condition of the continuance of the entry of the Member's Ship or Ships in this Class.

(g) Period of P. & I. cover

The period of P. & I. cover of all member clubs of the International Group is, in principle, one year from noon GMT on February 20th to noon GMT on February 20th of the next year, and it is called a policy year. In the case, however, of a ship newly entered, the period of cover commences at the time on the date stated in the Certificate of Entry and continues until noon GMT on February 20th next following. Thereafter the cover continues from year to year, unless the entry is terminated or the cover ceases in accordance with the statutes or Rules.

It may be said that P. & I. cover is a time policy in the meaning of the latter part of section 25(1) of the Marine Insurance Act 1906. Cover for less than one year may be agreed on.

(h) Claims payable by the clubs

In the case of shipowners, there is no limit of the club's liability for any claim except for oil pollution for which the limit of the club's liability in 1990 policy year is U.S.\$500 million per accident, while, in the case of charterers, the limit of the club's liability for any claim whether for oil pollution or not in 1990 policy year is U.S.\$500 million in the aggregate per accident.

According to the Pooling Agreement in respect of 1990 policy year,

- (1) each member club of the International Group retains any claim of up to U.S.\$1.6 million per ship per accident,
- (2) any claim of between U.S.\$1.6–12 million on any member club is shared among all the member clubs. The formula used to determine the proportion payable by each club is based on a combination of the tonnage entered the above Group, premiums paid to the above Group, and record of losses caused to the above Group by the respective club,
- (3) any claim of between U.S.\$12 to 1,262 million is covered by a separate reinsurance policy taken out by the above Group from the ordinary insurance market, and this insurance is known as the Group Excess Loss Policies, and
- (4) the portion of any claim in excess of U.S.\$1,262 million (Overspill Claim) is shared among

all the member clubs in proportion to the aggregate tonnage of ships entered with no limit of the Club's liability in the relevant policy year of each club.

As is well known, the call (or premium) levied by the club is divided into two kinds, i.e. (i) advance call (or premium) levied in advance of the beginning of a policy year and (ii) contribution (or supplementary call or premium) levied later. In addition to these calls, there is a catastrophe contribution (or catastrophe call or overspill premium) levied to meet a Overspill Claim as stated in (4) above.

(i) Termination of P. & I. cover

As stated before, P. & I. cover continues, in principle, from year to year, except for a cover for a specified period, but it terminates for any of the following reasons:

- (1) written advance notice of cancellation of the cover by either of the parties to the contract
- (2) in the case of an individual member, his death, mental disease or bankruptcy, and in the case of a corporation member, its bankruptcy or liquidation
- (3) member's failure to pay premium or contribution
- (4) transfer of management of an entered ship by sale or otherwise
- (5) total loss or missing of an entered ship
- (6) requisition of an entered ship
- (7) loss of class of an entered ship
- (8) dismissal of a person from membership

The time of termination of cover varies according to the respective reasons as stated above. For example, in the case of (1) above, a member or the club is required to give at least thirty days written notice of cancellation and the cover terminates at the end of the relevant policy year, i.e. noon GMT on February 20th.

Termination of cover on a ship does not bring about termination of all the insurance relations between the member and the club, because it may take several years before the policy year in which the ship was entered is closed and during such period the member remains liable to pay contributions or any catastrophe contribution. In order to remove such insecure position of the member, the Statutes or Rules of the P. & I. Clubs provide for the system of release call(or release contribution). Release call is payable, in place of either or both of the prospective contributions and catastrophe contribution, at the time of termination of the cover, and the amount of release call is determined by estimate. Whether, by payment of release call, the member is released from the liability to pay either or both of prospective contributions and catastrophe contribution depends on the clubs.

### III. Closing

As the guide books on P. & I. cover in the U.K. were very few until recently probably for the reason that there is little necessity of such publications in view of the nature of mutual clubs, it is regrettable that I could not fully discuss in the series of my treatises on the captioned subject. However, the fact that "An Introduction to P & I" (1988) by Christopher Hill, Bill Robertson and Steven J. Hazelwood and "P & I Clubs – Law and Practice"(1989) by Steven J. Hazelwood were successively published seems to reflect the increasing demand for such guide books due to the

remarkable development of P. & I. Clubs in recent years.

In view of disasters in recent years as stated below, there arises a movement for increasing premiums levied by the clubs.

- (1) capsizing of a British large ferry "Herald of Free Enterprise" off Port of Zeebrugge in Belgium on March 6, 1987 (deaths: approximately 200 and relevant club: Standard Club)
- (2) sinking of a Philippine coastal ferry "Dona Paz" in consequence of its collision with a Philippine tanker in Tablas Strait between Mindoro Island and Tablas Island on December 20, 1987 (Deaths of both vessels: 4,386, and relevant club: Steamship Mutual Club)
- (3) Stranding of an American VLCC "Exxon Valdez" off the coast of Alaska on March 24, 1989 (about 240,000 barrels of crude oil escaped out of her bottom causing serious oil pollution. Relevant club covering liabilities other than for oil pollution: Britannia club and relevant club covering liability for oil pollution: International Tanker Indemnity Association Ltd. (ITIA) which is an insurance organization covering shipowners' liabilities based on TOVALOP (Tanker Owners' Voluntary Agreement concerning Liability for Oil Pollution))
- (4) Explosion and destruction by fire of a Norwegian tanker "Mega Borg" off the coast of Texas in the U.S.A. on June 8, 1990 (about 126,000 barrels of light oil escaped. Relevant club: Gard Club)

In conclusion, it is sincerely hoped that P. & I. Clubs of every country will show further development and contribute to the progress of shipping world.

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