

BRITANNIA IS THE OLDEST P&I CLUB IN THE WORLD. TRUSTED BY OUR MEMBERS SINCE 1855, WE'VE BUILT A REPUTATION FOR PROVIDING AN EXCEPTIONAL STANDARD OF SERVICE. OUR CLUB INSURES A SIGNIFICANT FLEET OF BOTH OWNED AND CHARTERED TONNAGE AND HAS MANY OF THE WORLD'S BEST KNOWN SHIPOWNERS AND CHARTERERS AS MEMBERS.

P&I and FD&D (legal expenses) cover for shipowners is central to Britannia's business. Equally importantly, the Association also offers cover for charterers' liabilities. This area of the business has evolved and grown in response to the needs of the Association's Charterer Members. There follows an overview of the Association's covers for Charterer Members, with a particular focus on Members engaged in multimodal trades.

CHARTERERS' LIABILITIES

The Association's charterers' liabilities insurance is a wide-ranging, fixed premium package that can be tailored to a Member's particular requirements.

Cover is afforded on the basis of a combined single limit (CSL) up to USD750m or EUR750m per event.

CHARTERERS' P&I

Standard protection & indemnity insurance in accordance with the Rules of Class 3. Heads of cover include:

- Liabilities in respect of Seamen
- Liabilities arising from Collisions
- Damage to Property
- Pollution
- Removal of Wreck
- Responsibilities in Respect of Cargo
- Fines

CHARTERERS' P&I WAR

The Association's standard P&I cover excludes liabilities arising out of war and terrorism risks. This head of cover reinstates that cover.

CASE STUDY (1)

During loading of a container onto the Entered Ship the luffing wire of the Ship's crane breaks and the container presented by the charterer falls onto the container stack below, injuring a stevedore and also causing damage to the stack and the cargo in the container. It is found that the weight of the container exceeded the Safe Working Load of the crane.

P&I insurance will cover the Charterer Member for liability in respect of:

- personal injury to the stevedore
- damage to the dropped container and its cargo
- damage to the containers in the stack and their cargoes

COMMENT

Where required, the Association is able to offer more comprehensive third party liability cover, either in the form of standard extensions to cover (see below) or on bespoke terms.

CASE STUDY (2)

A terrorist places an incendiary bomb in a container of chemicals carried on board a chartered Entered Ship; the explosion is timed to coincide with the Ship's call at a busy container terminal so as to maximise disruption to the port, the country's infrastructure and its supply routes.

The detonator fails to trigger the explosive but nevertheless sparks a fire which destroys the cargo in the container and damages a number of the surrounding containers and their cargoes before the fire is brought under control.

The Association's P&I war cover would respond to claims against the Member in respect of liability for damage to and loss of the containers and their cargoes arising out of the terrorist act.

COMMENT

Our case studies are designed to illustrate one particular aspect of cover. In the above example, had the bomb exploded, a number of other losses might have resulted that are covered under this head of cover or elsewhere within the Association's charterers' liabilities insurance. Losses that might have arisen and be covered include:

- Injury and death of seamen
- Damage to or loss of cargo
- Damage to or loss of third party containers and cargo
- Damage to or loss of the Entered Ship
- Removal of wreck
- Damage to the container terminal
- Damage to other ships in the terminal



CHARTERERS' LIABILITIES MULTIMODAL TRADES

CHARTERERS' LIABILITY FOR DAMAGE TO HULL

This section of the Association's cover is wider than the heading might suggest; cover falls into three broad subheadings:

- **Liabilities to owners**
- **Member's own interests**
- **Member's costs, fees and expenses.**

a) Liabilities to owners

Cover includes liability for:

- physical damage to and/or loss of the ship
- ship's proportion of salvage, salvage charges and/or general average
- losses, costs and expenses reasonably incurred by owners for the purpose of averting and/or minimising physical damage to and/or loss of the ship
- demurrage and/or loss of use and/or hire of the ship and/or any similar financial loss arising out of an incident for which the Member is responsible
- surveyors' fees and disbursements, other experts' fees and disbursements, legal fees and disbursements and/or similar expenditure

CASE STUDY (3)

A Charterer Member stems bunkers on an Entered Ship. The bunkers are found to be off spec but the Ship has no alternative but to burn the bunkers while it makes for the nearest port where the bunkers can be offloaded and new bunkers stemmed.

The Association will cover the Member for liability in respect of:

- damage sustained by the Ship's machinery which could not be avoided;
- the costs of deviation to the port of refuge and associated port costs
- the costs of de-bunkering the Ship
- the costs of cleaning and making good the bunker tanks
- the fees of the surveyor/expert instructed by owners

b) Member's own interests

While the Association's cover focuses on charterers' liabilities, this head of cover provides indemnity for the following outgoings and costs to which the Member is potentially exposed:

- contributions to general average, salvage, salvage charges in respect of the Member's interest in bunkers, other property on board (excluding cargo and/or containers), hire and/or freight
- losses, costs and expenses reasonably incurred by the Member for the purpose of averting and/or minimising physical damage to and/or loss of the Member's interest in bunkers, other property on board (excluding cargo and/or containers), hire and/or freight

CASE STUDY (4)

The Entered Ship grounds on its passage inwards to a port and suffers bottom damage. The owners arrange for salvage services and declare GA. The owners subsequently allege that the loss occurred because the port was unsafe for the Ship and pursue the Member for repair and other costs.

The Member arranges for a surveyor to ascertain the nature and extent of the damage, instructs lawyers to defend the claim and instructs an expert on navigation.

In the event, evidence shows that the grounding was due to an error in the navigation of the Ship.

The Member can recover:

- salvage costs and GA contributions in respect of the Member's bunkers and any freight at risk
- survey costs
- legal and other costs incurred in defending the claim from owners

War, terrorism and strikes risks

The Association's cover in (a) and (b) is automatically extended to include:

- war and terrorism risks
- strikes, civil commotion, malicious, politically motivated and confiscation risks

COMMENT

Where a Member elects to trade an Entered Ship into an area of *perceived enhanced risk* for war and terrorism risks, the Member is typically required to pay the owner's hull war additional premium as a term of the owner's agreement. However, in so doing the Member does not automatically avoid liability arising out of the employment of the Ship in such an area. The above extensions ensure that the Member's liability for damage to hull cover is not prejudiced by trading in an area of *perceived enhanced risk*.

c) Member's costs, fees and expenses

The Association's insurance also includes cover for the Member's:

- losses, costs and expenses reasonably incurred for the purpose of averting and/or minimising liabilities, losses, costs and expenses otherwise covered by the insurance
- surveyors' fees and disbursements, other experts' fees and disbursements, legal fees and disbursements and/or similar expenditure in relation to the loss.



CASE STUDY (5)

During the unloading of an Entered Ship a container becomes wedged in the Ship's cell guides bringing discharge operations to a halt. Owners allege that the container became stuck due to rough handling by stevedores arranged by the Member and hold the Member liable for any resultant damage to the Ship.

The Member's agent in the port promptly engages the services of local steel fabricators who succeed in releasing the container and making good the damage. A local surveyor, acting for the Member, is present throughout and establishes pre-existing damage as the cause of the container becoming lodged in the cell guides. The Member counterclaims against owners.

In the event, at the Association's instigation and bearing in mind the conflicting merits of the case, the parties conclude a 'drop hands' agreement.

The Association agrees to treat the Member's cost of making good as a mitigation expense and also reimburses the Member for the fees of the local surveyor.

MULTIMODAL LIABILITIES

The following extensions of and/or additions to cover may be available to Members of the Association engaged in multimodal trades on application to the Managers.

Through transit liability

The Association's standard P&I cover in respect of cargo is 'port to port', that is for the period that the cargo is on board the Entered Ship.

However, Members engaged in containerised or liner trades often contract on 'through' or 'combined' bills of lading, assuming liability for the cargo prior to loading on, or after discharge from, the Entered Ship; these additional liabilities may relate to periods in storage pending transshipment or while the cargo is being carried on board other ships or by air, rail or road.

Through transit insurance covers the Member for loss or shortage of, or damage to, or other responsibility for cargo carried under a contract of through carriage, including transit by land, water or air to or from the Entered Ship.

CASE STUDY (6)

A reefer container containing frozen prawns is on-carried by road from the container terminal to the inland depot of the consignee's supermarket chain. The haulage contract is on acceptable terms and falls within the Association's cover.

As a result of an electrical fault on the lorry, power to the container's refrigeration unit fails and the cargo thaws, rendering it unfit for human consumption.

The Association indemnifies the Member in respect of the claim from the consignee for the lost cargo; but, using its rights of subrogation, it pursues the haulage contractor for negligently failing to maintain its vehicle.

Extended through transit liability

The Association is able to extend its through transit liability cover to include liability (arising out of the carriage of cargo) in respect of the illness or death of, or injury to, any person; and liability for loss of or damage to any fixed or moveable property when the cargo is being carried other than on the Entered Ship. This insurance includes cover arising out of the carriage of cargo while on land.

Damage to the hull of any feeder ship and/or any water borne conveyance on which the cargo is being carried is however expressly excluded as these liabilities can be covered under the Association's consortium and/or slot charterers' liabilities (see right).

CASE STUDY (7)

The Member has a contract of affreightment with an industrial conglomerate for the carriage of containerised chemical cargoes worldwide.

A container containing a volatile chemical that has to be maintained at a temperature below 50°C is collected from the shipper's factory. It is brought to the container terminal prior to loading but instead of being stored under cover it is inadvertently left out in the open in direct sunshine. The temperature in the container rises to 60°C and the chemical vaporises and then explodes. Damage to surrounding containers and their cargoes results and a passing longshoreman is critically injured.

The Association will indemnify the Member both for the Member's liability for the injury to the longshoreman and for damage to third party property.

Consortium and/or slot charterers' liabilities

The Association's standard P&I cover centres on liabilities arising out of the Member's interest in an Entered Ship and in connection with the operation of the Entered Ship.

However it is a key element of liner and multimodal trades that a Member's liabilities may extend to the Member's interest in other ships and/or conveyances on which the cargo is carried. Examples include:

- space charters
- slot charters
- slot swaps
- slot purchases
- consortium agreements
- connecting carrier agreements
- NVOCC contracts
- freight forwarder arrangements
- contracts of affreightment

The Association has developed a specialism in this area and is able to extend a Member's P&I cover to include liabilities arising in these different scenarios.

In addition, the Association is able to offer Members damage to hull insurance in respect of those ships and/or conveyances on which the cargo is carried under such agreements.





CASE STUDY (8)

The Member has a number of Entered Ships engaged in a consortium operating from Europe to South America.

A container containing 100 litre drums of highly concentrated sulphuric acid is loaded at Felixstowe for carriage by feeder ship to Antwerp prior to ocean carriage from there to Rio de Janeiro.

On the voyage from Felixstowe to Antwerp, the container is found to be leaking acid, causing damage to the containers and cargoes in the stack; fusing the ship's electrics; and causing noxious fumes to permeate throughout the ship, and breathing difficulties for the ship's crew.

The Association will indemnify the Member for liabilities arising out of the damage to the third party containers and cargo; the damage to the feeder ship; and for the Member's liability for the costs of the medical assessments and treatment of the feeder ship's crew.

Extended cargo liability

The Association's standard P&I cover to and in respect of cargo is based on the Member contracting on terms no less favourable than those contained in the Hague Visby Rules (HVR) or equivalent.

However, it is common in the liner and multimodal trades for Members to enter into Service Agreements with shippers whereby they assume liabilities as carrier which are less favourable than HVR and may potentially prejudice their standard cover from the Association.

As part of its service to Members, the Association is happy to review such contracts and, where required, find cover in the commercial market to cover any 'excess' liabilities identified as part of this review.

CASE STUDY (9)

The Member has entered into a Service Agreement with ABC Ltd in respect of the carriage of laptops from China to the USA; the six month contract has a minimum quantity commitment of 500 cartons, each containing 10 laptops valued at USD1,000 each. The value of goods to be shipped under the contract is therefore USD5m. The Association has approved the contract, excepting the limit of indemnity in respect of liability to cargo; under US COGSA package limitation (USD500) would apply to each carton, whereas under the Service Agreement the carrier's liability is up to the laptops' stated retail value of USD1,000 each.

The Association assists the Member in arranging excess liability insurance in the commercial market.

During discharge in the USA a container stuffed with 200 cartons breaks free from the gantry twistlocks and falls into the water. The cargo is lost.

The Association indemnifies the Member on the same basis as it would have done had the cargo been carried on US COGSA terms [USD 500 x 200 = USD100,000 (less the Member's deductible)]; the market insurance responds to the excess liability [USD1,000 x 10 x 200 less USD100,000 = USD1.9m].

Containers and container liability

The Association is able to assist its Members in obtaining commercial market insurance in respect of physical loss or damage to owned, leased or hired containers; and any third party liability associated with the operation thereof.

BUNKERS INSURANCE

Bunkers can represent a significant investment for the Member; and when oil prices rise the value of bunkers on board a ship at any one time can in turn rise sharply.

The Association's insurance covers the Member for physical damage to or loss of bunkers while on board an Entered Ship.

Standard cover protects the Member's interest in this valuable commodity/asset up to a maximum sum insured of USD1m but higher sums insured are available.

CHARTERERS' FD&D COVER

Freight demurrage and defence cover – covering legal costs and expenses arising out of a variety of disputes in which a Charterer Member may be involved – is available from the Association under its Rules of Class 6. This cover does not form part of the Charterers' CSL but is a valuable adjunct to it covering such matters as:

- disputes with owners over the validity of voyage instructions under the charterparty
- disputes over freight, charter hire, demurrage and detention
- disputes with port authorities, ship's agents, customs authorities or terminal owners
- disputes over the loading, stowing and discharge of cargo
- disputes with bunker suppliers over the supply of off spec or inferior bunkers.

Cover is limited to USD10m any one claim; the first USD7,500 of all legal costs and expenses is covered in full; and thereafter the Member contributes one-third of all additional expenses.

CASE STUDY (10)

At the end of a charter a Charterer Member withholds hire otherwise due to the Entered Ship's owner on the grounds that the Ship failed to attain the speed and bunker consumption figures stipulated in the charterparty which had been based on weather conditions up to and including 4 on the Beaufort scale; the Charterer Member further disputes the weather conditions recorded in the Ship's log. The Association accepts that the Member has a valid case and supports the Member instructing external experts in speed and bunker consumption, compiling weather data from independent sources and drawing on its in-house legal expertise.

LOSS OF FREIGHT/LOSS OF HIRE

The Association is able to assist its Members in obtaining commercial market insurance in respect of the risks of loss of freight and/or loss of hire.