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HUNT, BOARD AND PAY

Capt. Rakish Suppiah

A contract of insurance must impose an obligation upon the insurer to indemnify the assured in the event of a loss from an insured risk provided that other contractual provisions have been fulfilled. In other words, there must be a legally enforceable agreement in order to properly refer to it as a 'contract'. Accepting that the contract between a member and his club is a contract of insurance, a further issue to consider is whether the contract of insurance amounts to a contract of marine insurance.

Marine insurance is generally considered to have been the very first type of insurance. The oldest tangible evidence of this insurance is a policy written in 1343. In a different form, however, marine insurance was introduced many centuries prior to that time. Trade of various sorts was an important feature of ancient civilization starting from trade conducted primarily on land and gradually growing towards water transportation making it more important and cheaper commercially.

Marine insurance can be traced back to the *bottomry* bonds and *respondentia* bonds used in ancient Greece and Rome and, even further back, to the relationship between Babylonian traders and their *darmathas*. Sometime during the Middle Ages, the first true insurance transaction took place. By the seventeenth century, marine insurance was being transacted by individual underwriters who congregated in London coffeehouses, most notably Edward Lloyd's coffeehouse, which was the predecessor to the modern Lloyd's of London.

Towards the end of the year 2007 and the start of 2008, the insurance companies especially marine were issuing at competitive rates due to the increase in supply and reduction in claims. The period was being used by the marine insurers to exploit the financial situation by increasing their investments. The financial situation at that time had provided for a 'real' competition between the underwriters. Although the last few years saw an increased volume of premiums, rates remained at about 30-40 percent below nominal. Factors that influence the increase in volume could be translated to the strong freight market and expensive new builds or second hand assets.

The recent economic downturn had resulted in the freight market to stand at 90 percent lower than what it was in 2008. Hull insurance claim in late 2008 went up by 86 percent to last another 5 years due to the increase in expenses incurred to meet claims including higher towage and salvage rates, cargo values, pollution fighting equipment and the cost of expensive replacement parts. The average cost of a claim in 2009 is set to be higher than the one reported in the previous decade. While protection and indemnity rates continue to increase rapidly, costs in other liability lines are static in comparison. The high cost of crew maintenance and resources are also pinching its way deeper into the ship-owner pocket.

Marine insurance can be broadly classified as either property or liability insurance. PROPERTY INSURANCE insures against financial loss resulting from damage to, or destruction of, property in which the insured has an insurable interest. LIABILITY INSURANCE insures against financial loss resulting from some person or organization making a claim against the insured for damages because of bodily injury, death, property damage, or some other injury for which the insured is allegedly responsible.

The "perils clause" of a marine property policy lists the causes of loss covered by the policy. The perils of principal importance covered by hull and cargo policies are the "perils of the seas," which do not include every loss that occurs on the sea, but only accidental, unanticipated losses occurring through extraordinary action of the elements at sea, as well as mishaps in navigation such as collision with another vessel or running aground. Various other perils – such as fire, lightning, or earthquake—are also named in the perils clause. As the insurance needs of ship-owners and cargo shippers became more complex, new clauses were devised to cover additional perils such as bursting of boilers, breakage of shafts, and accidents in loading and unloading. Eventually, the concept of "all-risks" policy was introduced, which states that any risk of physical loss is covered unless it is specifically excluded. War, capture, seizure, political or labour disturbances, civil commotion, riot, and similar perils are excluded under basic marine insurance forms but can be bought back through an endorsement or by a separate policy.

The peril normally covered by a liability policy is a claim or suit brought against the insured claiming damages for some alleged wrongful act of the insured. Unless the claim is made or the suit is brought, the insured will not suffer a liability loss, even though the insured may have negligently injured another or damaged another's property. The types of loss covered by liability policies are presented in different ways. Typically, protection and indemnity policies contain several clauses describing the specific types of losses, costs, or expenses that the insurer will pay if, and only if, the insured is held liable for and has paid them.

Piracy attacks are considered as war risk in marine insurance and not covered under normal marine risk. Insurers would always request the ship-owner to insure the vessel against the attacks if the vessel is expected to transit through the areas normally prone to these attacks such as the west coast of Africa, the gulf of Aden, the Andaman sea, the straits of Malacca, the waters of Borneo and the Philippines.

In normal marine insurance coverage, the Hull Cover classed under the perils clause, as used in the Institute Hull clause 1983, includes ‘piracy’ to embrace the notion of violent acts of persons who board the vessel with an intention to steal. The insurance would include damage to or loss of the vessel. In the marine insurance act 1906, ‘pirated activity was classified as passengers who mutiny and rioters who attack the ship from the shore.

Recent rampant attacks on merchant ships in the Gulf of Aden has sent the cost of sending ships through one of the busiest transport routes soaring. Insurance companies have increased premiums for sending a cargo shipment through the Gulf of Aden to about USD 9,000 from USD 900 a year ago. In 2008 alone, ransoms of nearly USD 150 million were paid as a result of attacks by the Somali pirates. These have affected much of the ship-owners in the European continent as the cost of premiums were evidently transferred to them and later to consumer which is not what people in E.U wants in midst of this economic crisis. Being a major exporter of goods from the East, E.U is facing the grim of these attacks and to counter the horrific attacks and ransom payment , the European Union has formalised its very own Naval Force Coalition to escort, monitor and ensure the safety of its merchant ships transiting in the Gulf of Aden.