

## 9. A Study on Covers of Risk of Shipowners' Mutual Protection and Indemnity Insurance

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Along with the development of shipping industry, the related risks are increasing. Marine insurance which provides against various marine risks may be divided into Hull & Machinery Insurance and Protection and Indemnity.

Hull & Machinery Insurance generally compensate physical loss of or damage to the vessels insured and is operated by proprietary organizations. On the other side, P&I clubs cover the risks which arise from third party liability and cannot be compensated from Hull & Machinery Insurance. P&I is different from Hull & Machinery Insurance. P&I clubs, non-proprietary organizations, whose members are shipowners, at the same time, the assured, are operated on a mutual principle.

P&I, same as marine insurance, originates in England. Now in the world there are about 25 P&I clubs, among them 15 representative clubs have formed an international group and concluded a reinsurance agreement named Pooling.

Agreement for the purpose of dispersing the risks arising suddenly and of huge sum of money. In order to perform the agreement, it is necessary to standardize the risks the members cover. Therefore, in the Article and Rules of P&I Club which are representative in the world, though there is a little difference in the form or expression, the contents are very much alike.

Originally the necessity of P&I clubs had close relation with the changes of laws related to liability of shipowners. Nowadays the Shipowners' Liability Act is tended to making heavier the liabilities of shipowners.

This tendency can be seen from the increase of shipowners' limitation of liability and the appearance of new risks. Convention on Limits of Liability to Marine Claims 1976 came into force in late 1986 and the limits of liability was greatly increased. Following the accomplishment of 1984 Protocols Amending the 1969 and 1971 International Convention on Civil Liability for Oil Pollution Damage, the compensation limits in accordance with TOVALOP and CRISTAL are increased. Especially the United States Oil Spill Liability Act 1990 imposes stricter liability (whether civil or criminal) on the one who conducts oil pollution damage so that the liability limitation is 8 times increased than before. Moreover many countries have reinforced the regulation on the using of drugs. Where drugs are found in vessels, the Prohibition of Using Drugs Act is applicable and heavy fine is imposed on the shipowner.

It is in order to get over these risks that P&I clubs are being used.

In our country's case, there is still no P&I system. But nearly all the shipowners of ocean-going vessels have had their liability risks covered in P&I clubs for compensation of liability.

But recently the foreign P&I clubs impose special premium on the Korean coastle vessels entered and some Korean vessels are not permitted to join the clubs. What's more, the use of foreign P&I clubs will cause the loss of national power by the outflow of huge sum of premium to foreign countries, and the disagreement of foreign laws and civil laws will cause the insufficiency of compensation and a long time to deal with the insurance.

To solve the above mentioned problems, the Korean Fishery Department, in 1998, adopted P&I Club Act. But the detailed provisions related to P&I clubs still remain undecided.

In my personal opinion, at the preparation stage of establishing and managine P&I clubs, it is necessary to have some understanding of the legal construction of P&I clubs and the specific characters of the risks covered by P&I clubs. This paper aims at studying the legal construction of P&I clubs and the specific characters of the risks covered by P&I clubs.