

8th International Marine Claims Conference

a Presentation on

A.I. Hull Clauses (Sept. 29, 2009)

A.I. Hull War Risks and Strikes Clauses (Sept. 29, 2009)

A.I. Leading Underwriter(s) Endorsement – Claims Only

By

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A.I. Hull Clauses

June 2, 1977 to September 29, 2009

- History of modernization project
- Clause by clause comparison
- Form changes are in bold italics
- Questions

Vessel Clause (Lines 27-29)

- The Subject Matter of this insurance is ..., motor generators and other electrical machinery. *Each vessel deemed to be separately insured. In the event that more than one vessel is insured by the policy to which these clauses are attached, all such clauses shall apply as though a separate policy has been issued with respect to each vessel.*



GOODYEAR
SERVICIA

GOODYEAR

MAMMA
GOODYEAR

DON CHE
3742

VICTOR GUILLERMO
879

Vessel Clause (Lines 35-36)

This insurance also covers loss or damage to parts temporarily removed from the vessel, where such loss or damage is caused by an insured peril occurring during the policy period.



Duration of Risk (Lines 40-41)

- From the ____ day of _____ 20__, _____ time to the ____ day of _____ 20__, _____ time.

Should the Vessel at the expiration of this Policy be in *distress*, she shall, provided previous notice be given to the Underwriters, be held covered at a pro rata monthly premium *until moored safely afloat in a port of refuge*.

- June 2, 1977 – at sea, or in distress, or at a port of refuge or of call ... to her port of destination.



Premium (Line 61)

If the Vessel is insured under this Policy for a period of less than one year at pro rata of the annual rate, full annual premium shall be considered earned and immediately due and payable in the event of Total Loss of the Vessel *from a peril insured hereunder.*



Return of Premium (Line 75)

- Premium returnable as follows: ...
- provided always that:
 - (a) a Total Loss of the Vessel has not occurred during the currency of this Policy;
 - (b) in no case shall a return for lay-up be allowed when the Vessel is lying in exposed or unprotected waters or in any location not approved by the Underwriters;
 - (c) in the event of any amendment of the annual rate, the above rates of return shall be adjusted accordingly;
 - (d) in no case shall a return be allowed when the Vessel is used as a storage ship or for lighting purposes; and
 - (e) in no case shall a return be allowed if the vessel is under repair due to a loss insured hereunder.***

MSC NAPOLI



Non-Payment of Premium (Line 82)

- In the event of non-payment of premium 30 days after attachment, or of any additional premium when due, this Policy may be cancelled by the Underwriters upon 10 days written or *electronic* notice sent to the Assured at his last known address or in care of the broker who negotiated this Policy.
- June 2, 1977 – replaced telegraphic

Deliberate Damage (Line 122)

DELIBERATE DAMAGE (ENVIRONMENTAL HAZARD)

- Subject to the conditions of this Policy, this insurance also covers loss of or damage to the Vessel directly caused by governmental authorities acting for the public welfare to prevent or mitigate *an environmental hazard*, or threat thereof, resulting directly from damage to the Vessel for which the Underwriters are liable under this Policy, ...
- Environmental replaces Pollution



Claims (Lines 128-129)

- In the event of any accident or occurrence which could give rise to a claim under this Policy, prompt notice thereof shall be given to the Underwriters *and as soon as possible after the Assured has, or the Owners or Managers have, become aware or have knowledge of such loss, damage, liability or expense,* and

Claims (Lines 130-136)

- *(a) notwithstanding the foregoing requirement of prompt notice of all claims to the Underwriters, and without altering or amending such prompt notice requirement, any claims under this Policy shall be barred if notice of the claim is not given to the Underwriters for any reason within twelve months after the Assured has, or the Owners or Managers of the Vessel have, become aware or have knowledge of the occurrence of the loss, damage, liability or expense giving rise to the claim, unless the Assured reasonably believes that such loss, damage liability or expense will not give rise to a claim, the Underwriters agree to waive this time bar in writing, or notice was properly given to the Underwriters on any subsequent policy year and it is later determined that the loss, damage, liability or expense should be apportioned over multiple policy years, including earlier years;*

Claims (Lines 131-132)

- (a) notwithstanding the foregoing requirement of prompt notice of all claims to the Underwriters, and without altering or amending such prompt notice requirement, any claims under this Policy ***shall be barred if notice of the claim is not given to the Underwriters for any reason within twelve months*** after the Assured has, or the Owners or Managers of the Vessel have, become aware or have knowledge of the occurrence of the loss, damage, liability or expense giving rise to the claim, unless the Assured reasonably believes that such loss, damage liability or expense will not give rise to a claim, the Underwriters agree to waive this time bar in writing, or notice was properly given to the Underwriters on any subsequent policy year and it is later determined that the loss, damage, liability or expense should be apportioned over multiple policy years, including earlier years;

Claims (Lines 133-134)

- (a) notwithstanding the foregoing requirement of prompt notice of all claims to the Underwriters, and without altering or amending such prompt notice requirement, any claims under this Policy shall be barred if notice of the claim is not given to the Underwriters for any reason within twelve months after the Assured has, or the Owners or Managers of the Vessel have, become aware or have knowledge of the occurrence of the loss, damage, liability or expense giving rise to the claim, ***unless the Assured reasonably believes that such loss, damage liability or expense will not give rise to a claim***, the Underwriters agree to waive this time bar in writing, or notice was properly given to the Underwriters on any subsequent policy year and it is later determined that the loss, damage, liability or expense should be apportioned over multiple policy years, including earlier years;

Claims (Lines 135-136)

- (a) notwithstanding the foregoing requirement of prompt notice of all claims to the Underwriters, and without altering or amending such prompt notice requirement, any claims under this Policy shall be barred if notice of the claim is not given to the Underwriters for any reason within twelve months after the Assured has, or the Owners or Managers of the Vessel have, become aware or have knowledge of the occurrence of the loss, damage, liability or expense giving rise to the claim, unless the Assured reasonably believes that such loss, damage liability or expense will not give rise to a claim, the Underwriters agree to waive this time bar in writing, ***or notice was properly given to the Underwriters on any subsequent policy year and it is later determined that the loss, damage, liability or expense should be apportioned over multiple policy years, including earlier years;***

Claims (Lines 157-161)

- *Upon the request of the Underwriters, the Assured must provide or make available information or documentation from the classification society reasonably requested by Underwriters concerning the condition of the Vessel before and during the policy period. Additionally, the Assured shall authorize the Underwriters to obtain such information directly from the classification society and from the relevant authorities in the country where the Vessel is registered or has been through port state control. Prompt notice shall be given to the assured whenever such requests for information are made.*

Claims (173-181)

- *Claims become time-barred after ten years from the end of the calendar year during which the loss or damage giving rise to any claim under this policy took place, unless the Underwriters agree to an extension in writing, which agreement shall not be unreasonably refused. However, this time bar shall not become effective until ninety days after notice of the time bar has been given to the Assured by the Underwriters, which notice may be given within six months of the expiry of the limitation period, or thereafter. If notice is given within six months of the expiry of the limitation period, the limitation expiry date shall be ten years after the date on which the loss or damage took place, or ninety days after the Assured's receipt of the notice, whichever is later. As respects claims for third-party liability, such claims shall not become time-barred before the time when the liability claim against the assured becomes time-barred. The ten-year limitation shall not apply to claims where notice was properly given to the underwriters on any subsequent policy year and it is later determined that the loss, damage, liability or expense should be apportioned over multiple policy years, including earlier years.*

Claims (173-174)

- ***Claims become time-barred after ten years from the end of the calendar year during which the loss or damage giving rise to any claim under this policy took place***, unless the Underwriters agree to an extension in writing, which agreement shall not be unreasonably refused. However, this time bar shall not become effective until ninety days after notice of the time bar has been given to the Assured by the Underwriters, which notice may be given within six months of the expiry of the limitation period, or thereafter. If notice is given within six months of the expiry of the limitation period, the limitation expiry date shall be ten years after the date on which the loss or damage took place, or ninety days after the Assured's receipt of the notice, whichever is later. As respects claims for third-party liability, such claims shall not become time-barred before the time when the liability claim against the assured becomes time-barred. The ten-year limitation shall not apply to claims where notice was properly given to the underwriters on any subsequent policy year and it is later determined that the loss, damage, liability or expense should be apportioned over multiple policy years, including earlier years.

Claims (175-177)

- Claims become time-barred after ten years from the end of the calendar year during which the loss or damage giving rise to any claim under this policy took place, unless the Underwriters agree to an extension in writing, which agreement shall not be unreasonably refused. ***However, this time bar shall not become effective until ninety days after notice of the time bar has been given to the Assured by the Underwriters, which notice may be given within six months of the expiry of the limitation period, or thereafter.*** If notice is given within six months of the expiry of the limitation period, the limitation expiry date shall be ten years after the date on which the loss or damage took place, or ninety days after the Assured's receipt of the notice, whichever is later. As respects claims for third-party liability, such claims shall not become time-barred before the time when the liability claim against the assured becomes time-barred. The ten-year limitation shall not apply to claims where notice was properly given to the underwriters on any subsequent policy year and it is later determined that the loss, damage, liability or expense should be apportioned over multiple policy years, including earlier years.

Claims (179-180)

- Claims become time-barred after ten years from the end of the calendar year during which the loss or damage giving rise to any claim under this policy took place, unless the Underwriters agree to an extension in writing, which agreement shall not be unreasonably refused. However, this time bar shall not become effective until ninety days after notice of the time bar has been given to the Assured by the Underwriters, which notice may be given within six months of the expiry of the limitation period, or thereafter. If notice is given within six months of the expiry of the limitation period, the limitation expiry date shall be ten years after the date on which the loss or damage took place, or ninety days after the Assured's receipt of the notice, whichever is later. ***As respects claims for third-party liability, such claims shall not become time-barred before the time when the liability claim against the assured becomes time-barred.*** The ten-year limitation shall not apply to claims where notice was properly given to the underwriters on any subsequent policy year and it is later determined that the loss, damage, liability or expense should be apportioned over multiple policy years, including earlier years.

General Average and Salvage (Line 184)

- General Average and Salvage shall be payable as provided in the contract of affreightment, or failing such provision or there be no contract of affreightment, payable at the Assured's election either in accordance with York-Antwerp Rules ***1974 or 1994, or as agreed***, or with the Laws and Usages of the Port of New York.

War Strikes & Related Exclusions

(Lines 322, 328-330)

- This Policy does not cover any loss, damage or expense caused by, resulting from, or incurred as a consequence of:
 - (a) Capture, seizure, arrest, restraint, detainment, *confiscation or expropriation* or any attempt thereat; or ...
 - (g) *Any act perpetrated by terrorists or any act carried out by any person or persons acting primarily from a political, religious or ideological motive; or*
 - (h) *Any threat of terrorist activity, actual or perceived, including closure of ports or blockage of waterways resulting therefrom; or ...*

Hull War Risks and Strikes Clauses

December 1, 1977 to September 29, 2009

- Form renumbered from 87B-108 to **87C-108**
- Clarified that Piracy is covered in War Risk policy
 - 3. Civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, *or piracy*;



Hull War Risks and Strikes Clauses

December 1, 1977 to September 29, 2009

- Clarified that terrorism is included in the war risk policy.
 - *8. Any act perpetrated by terrorists or any act carried out by any person or persons acting primarily from a political, religious or ideological motive;*
 - *9. Any threat of terrorist activity, actual or perceived, including closure of ports or blockage of waterways resulting therefrom.*





Hull War Risks and Strikes Clauses

September 29, 2009

- Addendum (Form SP-108C) April 1, 1984 is included in the September 29, 2009 form.
- Adds coverage for Confiscation & Expropriation
 - *7. Confiscation or expropriation*; (Line 20)
- Clause f. of the Exclusions is amended to add expropriation
 - f. Capture, seizure, arrest, restraint, detainment, confiscation *or expropriation* by the Government of the United States or of the country in which the Vessel is owned or registered. (Line 34)
- Clause D in the Automatic Termination and Cancellation Clauses
 - Changes the cancellation notice from 14 days to *7 days*. (Lines 71 & 76)

Hull War Risks and Strikes Clauses

September 29, 2009 (Lines 49-59)

- *In the event that the Vessel shall have been the subject of capture, seizure, arrest, restraint, detainment, confiscation or expropriation, and the Assured, by reason thereof, has lost the free use and disposal of the Vessel for continuous period of twelve (12) months (even though condemnation has not occurred), then for the purposes of ascertaining whether the Vessel is a constructive Total Loss, the Assured shall be deemed to have been deprived of the possession of the Vessel without any likelihood of recovery.*
- *“Restraint” as used in lines 49 to 53 above shall be deemed to include the inability of the Vessel to sail from any port or place to the high seas because of closure of the connecting waterway to all vessels of similar size or draft due to blockage of such waterway caused by hostilities or warlike operations.*
- *Warranted not to abandon in case of capture, seizure, **arrest, restraint**, detention, **confiscation or expropriation** until after condemnation of the property insured, **or, in circumstances set forth at lines 49 to 56 above, after twelve (12) months, whichever first occurs.***

Hull War Risks and Strikes Clauses

September 29, 2009

Other Changes

- Exclusion for outbreak of war referred to the Union of Soviet Socialist Republics; changed to the *Russian Federation*. (Line 66)
- Telegraphic notice in the Automatic Termination and Cancellation Clauses is changed to “*electronic*”. (Lines 72-73, 77)

Leading Underwriter(s)

Endorsement – Claims Only

- Notwithstanding the rights of the Assured, where there are multiple insurers subscribing to the Policy to which this clause is attached, and one or more of these insurers has been designated below, or on the binder, slip, declarations page, policy or otherwise in writing by the broker as a “Leading Underwriter,” all other subscribing underwriters (the “Following Underwriters”) agree that the Leading Underwriter(s) so designated may act on behalf of the Following Underwriters so as to bind all Underwriters for their respective interests in respect of the following matters:
 - (a) the appointment of surveyors, experts, and lawyers, when acting on behalf of all underwriters in relation to matters which may give rise to a claim under this insurance;
 - (b) the duties and obligations to be undertaken by all underwriters, including but not limited to the provision of security, claims procedures, the handling of any claim and the pursuit of recoveries; and
 - (c) all payments or settlements to the assured or to third parties under this insurance other than those agreed on an “ex gratia” basis.

Leading Underwriter(s) Endorsement – Claims Only

Continued

- Notwithstanding the above, the Leading Underwriter(s) may require such matters to be referred to the Following Underwriters.
- The Following Underwriters shall, to the extent of their respective several proportions, indemnify and hold harmless the Leading Underwriter(s) for all liabilities and actual costs or expenses incurred and paid by the Leading Underwriter(s) in respect of the above.
- Where this Leading Underwriter(s) Endorsement is attached to and made applicable to a Policy incorporating the American Institute Hull Clauses (dated either June 2, 1977 or September 29, 2009, or as indicated):
 - 1. the term “Underwriter(s)” wherever appearing in the Claims (General Provisions) clause therein shall be deemed to mean “Leading Underwriter(s),” and
 - 2. the words “a majority (in amount) of Hull Underwriters” at line 237 (September 29, 2009) or line 164 (June 2, 1977) of the Collision Liability clause shall be deemed to mean “the Leading Underwriter(s).”
- Leading claims Underwriter(s): _____

Resources

- www.AIMU.org
- Go to Forms tab for .pdf versions of all forms and Summaries of Changes for each form.
- Contact AIMU for a Word version of the forms.

END

Question & Answer



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