



Module 8

Sample questions

QUESTION 1

Scenario

You have been approached by a broker with a potential new Member who is currently insured outside the International Group.

The broker advises the following information about this potential new Member :

- They have a mixed fleet, as shown in the attached document (Attachment 1)
- They have a rather complicated organisational structure, as shown in the attached diagram (Attachment 2)
- They also use in house drafted Contracts Of Affreightment (COAs) which have some particularly unusual clauses within them. An outline of these clauses is shown in the attached document (Attachment 3)

During the meeting with the broker, you are also advised that the potential new Member intends to use their own non-negotiable house bill for certain shipments.

Question

- a) Describe the characteristics of each of the ships in the fleet, the types of claim that might arise and the natural and non-natural hazards they might face.
- b) Explain the differences between the underwriters' ability to quote for this fleet and what they would have to do if the fleet was already entered with another IG Club
- c) Highlight the questions that the underwriter should be asking about this prospective new Member and the information they should obtain

- d) Discuss what categories of membership are available, which of them might apply to any of the companies shown in the corporate structure and why
- e) Analyse what issues are raised by the COA terms and draft a letter to the broker explaining whether they would be covered for liabilities which might arise due to those terms . Within that letter explain to the insured what the Club’s position will be in relation to any misdelivery claims arising from the use of their non-negotiable house bills

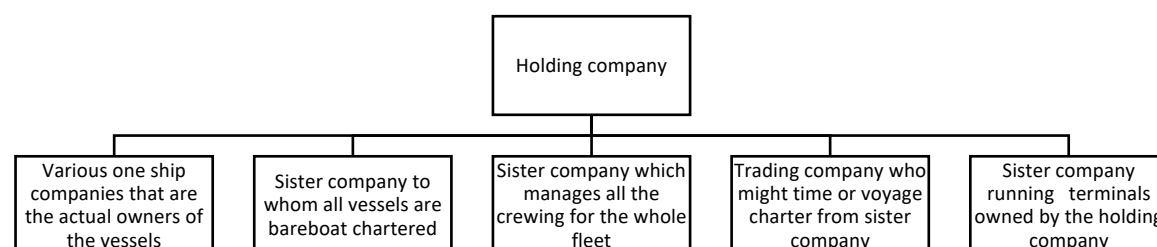
10% of the marks awarded will be for structure and drafting

Attachments to question 1

Attachment 1 - fleet list

| Name | Built | GT | Type | Operating area |
|-----------------|-------|--------|------------------|--|
| Sunshine | 1995 | 32,500 | Ro/Pax ferry | Baltic |
| Boxy Lady | 1981 | 25,000 | Container vessel | Asia – between Hong Kong and Philippines |
| Viscosity | 2001 | 9,250 | Products | Europe |
| Cloudy Lady | 1998 | 49,200 | Ro/Ro ferry | Mediterranean |
| Product Express | 2002 | 9,250 | Products | Europe |

Attachment 2 – corporate structure



Attachment 3 – areas covered in the COAs

- The acceptance of liability for any delay of more than 48 hours to the scheduled arrival of a vessel at its load or discharge port, for whatever reason;
- A formula for the calculation of damage and loss to any goods which is more than the Hague Visby Rules package or weight liability,
- To protect the brand, any goods arriving in wet damaged or stained packaging are to be treated as a write off, even though the goods themselves may be undamaged.
- The time for the notification of claims under the COA is two years.

QUESTION 2

Scenario

A 5,000 gt tanker entered in your Club is anchored in Kobe Bay in Japan awaiting instructions to discharge a cargo of Number 6 heavy fuel oil at a nearby port when it is struck by a dredger working on the port expansion. A hole is punched in one of the tanker's bunker tanks and some bunker oil escapes into the sea before the chief engineer is able to transfer the remaining fuel oil to adjacent bunker tanks. Immediate efforts are made to confine the oil within booms placed around the tanker, but an oil slick forms on the surface and is driven by the wind and tide, threatening 50 miles of adjacent coastline and beaches.

The Japan Defence Force (JDF) are quickly on the scene and the Club is notified. The JDF maintains a stockpile of counter pollution and salvage equipment including skimmers and dispersants and the necessary equipment is mobilised. Your Member's vessel is temporarily patched with steel plates and escorted to the terminal to discharge its cargo and to transfer the remaining fuel oil before going into a nearby dock for repairs.

A large number of claims are made soon afterwards by commercial fishermen, hotels, restaurants, holiday resorts, and other businesses involved in tourism along the coast for loss of revenue, economic loss and property damage.

Claims for shoreline clean-up and the cost of oil recovery are also made by various local authorities

Japan is a signatory to CLC 1992, the 1992 Fund and the Supplementary Fund 2003 and the Bunker Convention 2001. The vessel's CLC limit is approximately US\$ 7 million. Claims are expected to reach US\$ 40 million. The Member has four fourths collision cover with the Club.

Several months later you receive a bill from a lawyer whom you do not know, and whom you have not instructed, for the provision of advice to the owners' management (who have had no previous experience of pollution matters).

The lawyer's hourly rate is unacceptably high and the initial bill for £100,000 disproportionate to the work that appears to have been performed.

While you are considering your next step, the Member calls and asks for your confirmation that the Club will pay their lawyers' bill, whom they believe always deliver excellent results at competitive rates and who would like to secure more work from the Club.

Question

As the principal claims handler dealing with the incident:

- a)
- Describe the information that you will need to gather about the spill,
 - Who you will notify and appoint to handle the spill and to attend on scene and
 - The next steps and how the day to day practicalities of handling claims arising will be dealt with.
- b) Advise which convention applies to the spill and how compensation and clean-up costs will be paid.
- c) Discuss the importance of accurately reserving this matter and how any claim would be notified to the Pool
- d) Draft a letter to the Member setting out the Club's rules on instruction of lawyers and experts.

50 marks overall for the question. 10% of the overall marks will be awarded for presentation, drafting and structure of answers