



Roles & Responsibilities

Classification Societies

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Why Classification ?

- **Second Half 18th Century: Marine Insurers required independent technical assessment of ships for Insurance Cover at Lloyd's Coffee House, London !**
- **1760: Committee formed for this purpose**
- **1764/65/66: Earliest existing *Lloyd's Register Book developed* & attempt made to 'Classify' ship condition on Annual Basis**

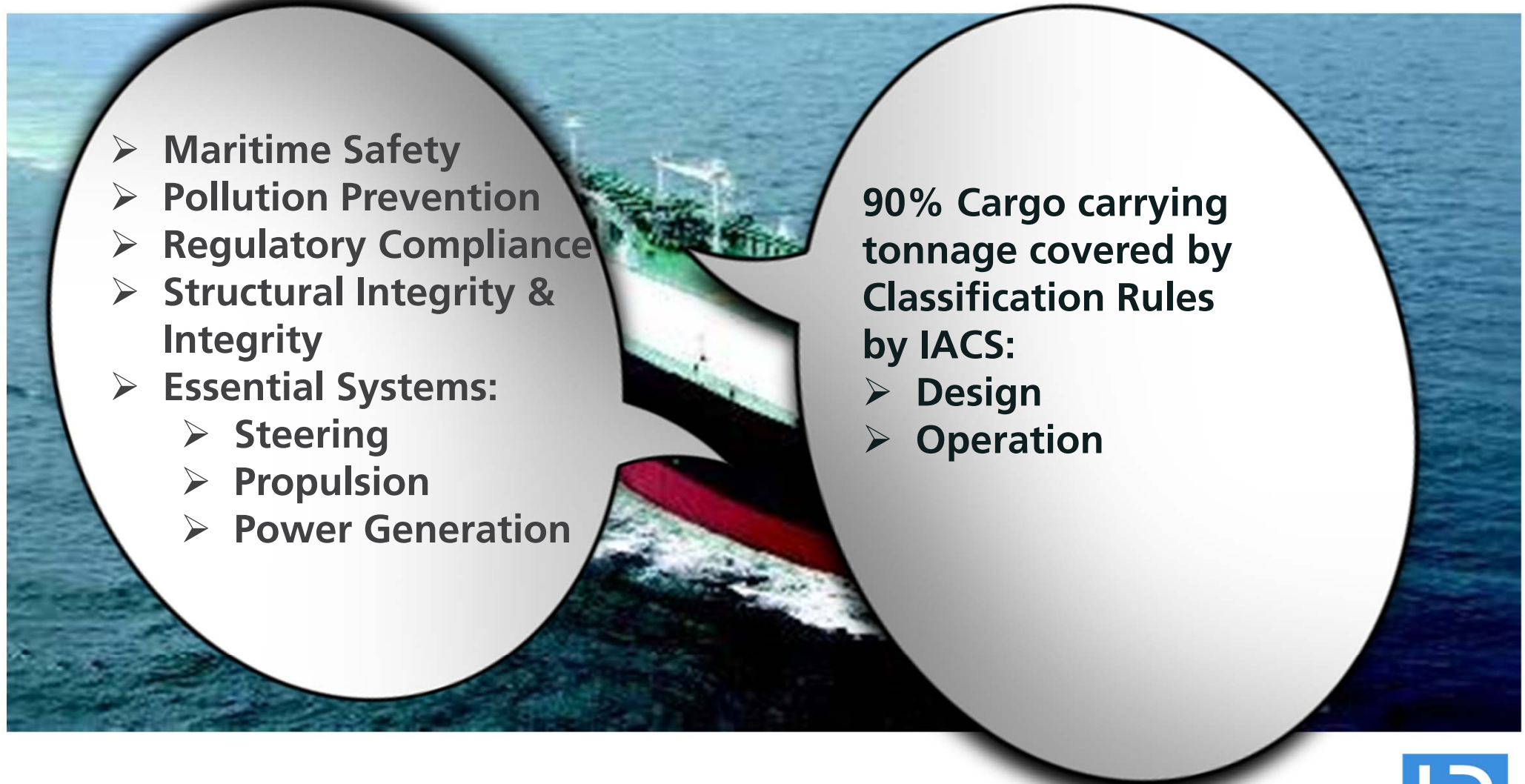


Class Societies – Purpose and Objective

- Class societies make a unique contribution to maritime safety and regulation through technical support, compliance verification and research and development. More than 90% of the world's cargo carrying tonnage is covered by the classification design, construction and through-life compliance Rules and standards set by the Member Societies of IACS.
- The purpose of a Classification Society is to provide classification and statutory services and assistance to the maritime industry and regulatory bodies as regards maritime safety and pollution prevention, based on the accumulation of maritime knowledge and technology .
- The objective of ship classification is to verify the structural strength and integrity of essential parts of the ship's hull and its appendages, and the reliability and function of the propulsion and steering systems, power generation and those other features and auxiliary systems which have been built into the ship in order to maintain essential services on board



Class Societies – Purpose and Objective



IACS Defining Classification Society & its Role...



- Publishes classification Rules in terms of Design, Construction and Survey
- Capacity to apply, maintain and update
- Verifies compliance during construction and periodically during operation throughout ship's service life
- Publishes a register of Classed Ships
- Independent 3rd party
- Authorised by Flag Administration (SOLAS Ch. XI-1, Regulation 1) & listed IMO database
- Global Integrated Shipping Information System (GISIS)

Class Notations – What does it indicate?

- Main Class symbol
- Construction marks
- Service notation
- Navigational
- Geographic

History of "A1"

- Condition of Hull:
A, E, I, O or U
- Equipment:
G, M or B
 - Replaced by 1,2 or 3
- A1 (1ST or Highest Class)

Current Class Notations - HULL

⚡100A1 DOUBLE HULL OIL AND CHEMICAL TANKER TYPE 2,ESP, *IWS,SPM, LI

- **⚡** : New ships constructed under LR special survey in compliance with the LR Rules
- **100** : Suitable for sea-going service
- **A** : Built or accepted into class in accordance with LR's Rules and Regulations & maintained in good and efficient condition
- **1** : Good and Efficient condition of anchoring and/or mooring equipment in accordance with the Rules
-

Current Class Notations - Machinery



✠ LMC, UMS

- ✠ **LMC** : Propelling and essential auxiliary machinery constructed, installed and tested under LR's Special Survey and in accordance with LR's Rules and Regulations
- **UMS** : Ship can be operated with the machinery spaces unattended & control engineering equipment has been arranged, installed and tested in accordance with LR's Rules, or equivalent

Conditions for Classification (COC)

- Any damage, defect, breakdown grounding, serious deficiency, detention, arrest or refusal of access...to be reported to Class
- Vessels continue to be classed as long as they are found to be maintained in accordance with the requirements of the Rules for Hull and Machinery
- Ships suitable for the geographical or other limits or conditions of the service contemplated
- Loading conditions and any other preparations required to permit a ship with a Class notation specifying some service limitation to undertake a sea-going voyage (port of build to service area OR one service area to other service area) to be in accordance with arrangements agreed by Class, prior voyage
- Ships will be properly loaded and handled
- Exceptional loaded or ballast conditions to be submitted for consideration



Conditions for Classification (COC)

- **Operation in environmental conditions more severe than those agreed**
- **Detained by Port State Control**
- **Applicable Convention Certificates issued by a National Administration, or by an IACS Member.**
- **SOLAS**
- **MARPOL**
- **LOADLINE**
- **IBC / IGC Code**



How do vessel enter Classification?

- **Technical review of the design**
- **Attendance during construction of the vessel**
- **Attendance at the relevant production facilities that provide key components**
- **Attendance at sea trials and other trials relating to the vessel**
- **Upon satisfactory completion, Assignment of class may be approved**
- **Once in service, periodical class and statutory surveys, carried out on board**



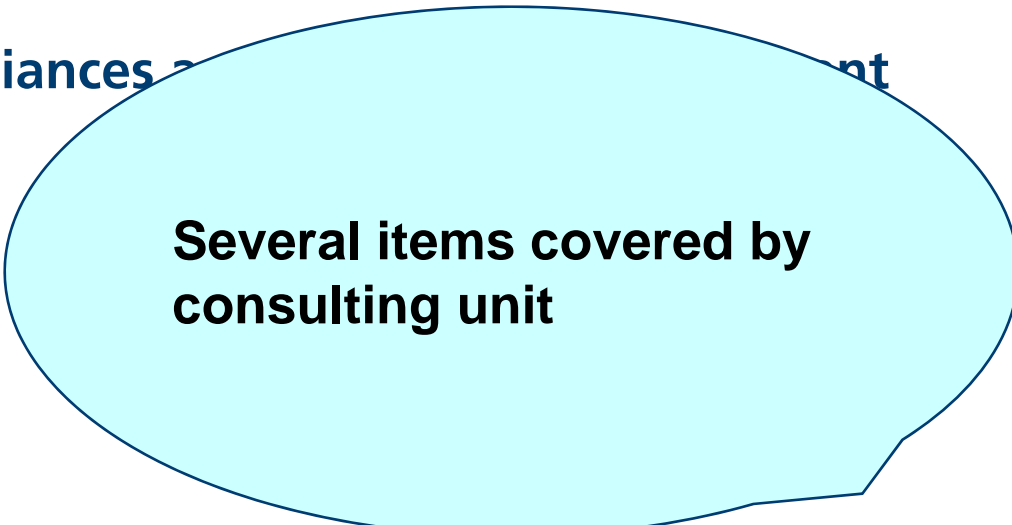
Classification – What is covered

- Structural strength and integrity of essential parts of the ship's hull and its appendages,
- Reliability and function of the propulsion and steering systems,
- Power generation and those other features and auxiliary systems which have been built into the ship in order to maintain essential services on board



Classification – What is not covered

- Design and manufacturing processes;
- Type and power of machinery and certain equipment (e.g. winches);
- Number and qualification of crew or operating personnel;
- Form and cargo carrying capacity of the ship and manoeuvring performance;
- Spare parts;
- Life-saving appliances and equipment



**Several items covered by
consulting unit**

Classification Surveys

- **Classification survey a “Visual Examination” :**
 - Overall examination of the items identified in the Rules for survey;
 - Detailed checks of selected parts, on a sampling basis;
 - Witnessing tests, measurements and trials where applicable
- **Each classed vessel subject to a specified programme of periodic surveys after delivery based on a five-year cycle:**
 - Annual survey (Every 12 months, with window of +/- 3 months)
 - Periodical/Intermediate survey (Instead of the 2nd or 3rd Annual survey)
 - Class Renewal / Special survey (every 5 years)
- **Rigour of each specified survey increases with the age of the vessel**



Findings: Classification Surveys

- Corrosion
- Structural defects or damage to hull
- Structural defects or damage to machinery
- Structural defects or damage to other piece of equipment
(Based on Class Rules)
- 'Recommendation' and 'COC' different terms used by IACS Societies for the same thing
- 'Memoranda' or a similar term: Assistance to owners



Assignment, Maintenance, Suspension & Class Withdrawal

- **Owner's responsibility to maintain the ship in the period between surveys**
- **Owner, or its representative, to inform the Society of any events or circumstances that may affect the continued conformance of the ship with the Society's Rules**
- **Where the conditions not complied with, class may be suspended, withdrawn or revised to a different notation**



Statutory surveys

- Under the auspices of the IMO, International Conventions have been agreed which set out uniform requirements
- Referred to as 'Statutory' requirements :

May be covered by Class Society Rules

Class Societies carry out "Statutory" surveys on behalf of Administration

- Situation after an accident (fire, flooding) including containment & escape.

Port State Control (PSC) MOU


- **'PSC' System of harmonized inspection-procedures designed to target sub-standard vessels**

March 1978, grounding of "Amoco Cadiz" off French coast resulted in a massive oil spill


- Memorandum of Understanding signed in Paris in 1982 (Paris MOU) which covered:
 - Safety of life at sea; Prevention of pollution by v/l; Living & working conditions on board
- Current MoU's:
 - Paris MoU (Europe and North Atlantic region) ; Vina Del Mar (Latin American region);
 - Tokyo MOU (Asia-Pacific region); Caribbean MOU (Caribbean region);
 - Mediterranean MOU (Mediterranean region); Indian Ocean MOU (Indian Ocean region);
 - Abuja MOU (West and Central African region); Black Sea MOU (Black Sea region);
 - United States



Port State Control (PSC) MOU



'PSC' System of harmonized inspection-procedures designed to target sub-standard vessels



Amoco Cadiz disaster brought about stringent Safety, Environmental Regulations & PSC regime...

Hull Damage and Defects

- **Overload**
- **Inappropriate design**
- **Poor workmanship**
- **Wear and tear**
 - **Corrosion,**
 - **Fatigue & vibration,**
 - **Stress concentration**



Damage Surveys

OVERLOAD:

- **Contact**
- **Collision**
- **Allison**
- **Grounding**
- **Heavy Weather**



Damage Survey

GROUNDING



BRAER - Aground



Damage Survey

GROUNDING



Damage Survey

COLLISION



Damage Survey

COLLISION



Damage Survey

COLLISION



Damage Survey

COLLISION



Damage Survey

**CONTACT
DAMAGE**



Lloyd's Register Marine – Class Societies Roles & Responsibilities



Damage Survey

OPERATIONAL FAILURE & MISHANDLING



Damage Survey

OPERATIONAL FAILURE & MISHANDLING



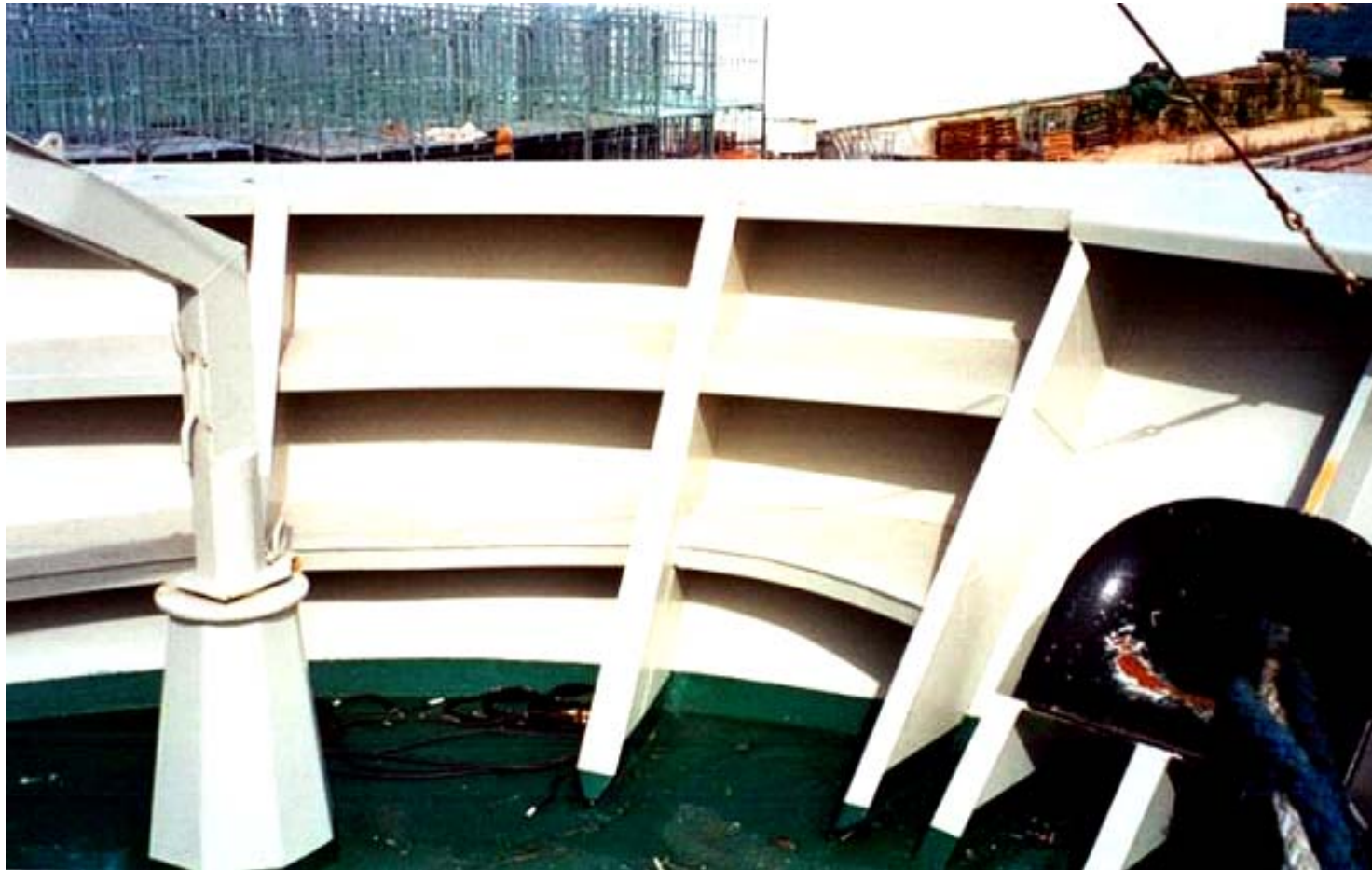
Damage Survey

**FORECASTLE
WITH HEAVY
WEATHER
DAMAGE**



Damage Survey

**HEAVY
WEATHER
DAMAGE
REPAIRED**



Damage Survey – Class Approach

- **When does Class Surveyor attend for damage survey?**
 - **At the request of Owner / Operator / Owner's agent / Vessel Master**
- **What 'time of the day' the attendance made:**
 - **At earliest opportunity after receiving request from the Owners**
 - **Damages relating to ship's Hull - In daylight hours**



Damage Survey – Class Approach

What do Class look for...

- Weather conditions at the time of the damage
- Account of the occurrence, if possible from witnesses
- Particulars of voyage, position, course and speed of vessel at time of casualty, dates of sailing and arrival...
- Details of loading, with sketch showing disposition of cargo and/or stores, oil fuel, water ballast
- Draughts forward and aft at departure and arrival
- Ascertain the extent of the damage and compliance Rule Requirements



Damage Survey – Class Approach

Assessment and Recommendations:

- **Wastage (including buckling, grooving, detachment or fracture)**
- **Extensive areas of wastage over the allowable limits, affecting the vessel's structural, watertight or weather tight integrity, is to be promptly and thoroughly repaired**
- **Damages and partial or temporary repairs considered acceptable by the surveyor for a limited period of time are covered by the issuance of an appropriate recommendation/condition of class.**
- **Damages or repairs required by the surveyor to be re-examined after a certain period of time are also covered by an appropriate recommendation/condition of class**



Damage Survey – Class Approach

Reports and Certificates issued after Damage Survey:

- Recommendations in form of a 'Interim Certificate'
- Any 'Condition of Class' or 'Memorandum' with 'due by' date recorded in the 'Interim Certificate'
- If requested by the Owners or Port State Authorities – a Statement of fact' can be issued along with the 'Interim Certificate'.
- Lloyd's Register do not issue any 'Seaworthiness Certificate'.
- **Classification Societies are not guarantors of safety of life or property at sea or the seaworthiness of a vessel - Why**
 - Classification Society has no control over how a vessel is manned, operated and maintained between the periodical surveys



The Importance of Class in Marine Insurance, Claims, and Legal Liabilities

AUGUST 2014

CHRISTIAN OTT

VICE PRESIDENT HEAD OF CLAIMS

SKULD SINGAPORE BRANCH



The Importance of Class to a Vessel's ...



Class and a Vessel's Marine Insurance



Class and P&I Cover

Being “in Class”
is essential to
P&I Cover



P&I Cover is
essential to a
vessel’s ability to
trade

- **28.4 Classification & certification**

It shall be a **condition precedent** of the insurance cover,

28.4.1 that the entered vessel remains fully classed with a classification society approved by the Association,

28.4.2 that the vessel's classification society is not changed without the Association's prior consent,

Class and Hull Insurance Cover

- ITC Hull 1/10/83 - Clause 4

This Clause 4 shall prevail notwithstanding any provision whether written typed or printed in this insurance inconsistent therewith.

Unless the Underwriters agree to the contrary in writing, this insurance shall terminate automatically at the time of

4.1 change of the Classification Society of the Vessel, or change, suspension, discontinuance, withdrawal or expiry of her Class therein, provided that if the vessel is at sea such automatic termination shall be deferred until arrival at her next port. However where such change, suspension, discontinuance or withdrawal of her Class has resulted from loss or damage covered by Clause 6 of this insurance or which would be covered by an insurance of the Vessel subject to current Institute War and Strikes Clauses Hulls-Time such automatic termination shall only operate should the Vessel sail from her next port without the prior approval of the Classification Society,

Class and Hull Insurance Cover

- International Hull Clauses 01/11/03 – Clause 13

Clause 13 Classification and ISM

- 13.1 *At the inception of and throughout the period of this insurance and any extension thereof*
- 13.1.1 *the vessel shall be classed with a Classification Society agreed by the Underwriters*
- 13.1.2 *there shall be no change, suspension, discontinuance, withdrawal or expiry of the vessel's class with the Classification Society*
- 13.1.3 *any recommendations, requirements or restrictions imposed by the vessel's Classification Society which relate to the vessel's seaworthiness or to her maintenance in a seaworthy condition shall be complied with by the dates required by that Society*
- 13.2 *[further applicable terms]*

P&I ...



Class and the Vessel's liberty to trade

– Charterparties

- Typically in popular charter forms, a requirement of Class is expressly mentioned, including :

NYPE 1946 :

- *“with hull, machinery and equipment in a thoroughly efficient state, and classed ... ”* (Line 5)
- and *“That the Owners shall ... maintain her class ... for and during service.”* (Clause 1)

Shelltime 4 :

- *“At the date of delivery of the vessel under this charter and throughout the charter period: (a) she shall be classed by a Classification Society which is a member of the International Association of Classification Societies,”* (Clause 1 (a))
- and *“her ... classification society ... shall not be changed;”* (Clause 1 (b))

Class and the Vessel's liberty to trade

– Port Requirements

When conducting routine checks, Port State Control (PSC) may ask for Class certificates to be shown

Following an incident, like a collision, and before coming in to a Port, authorities like PSC in Singapore (under the auspices of the MPA) are very likely to check whether or not Class has made any recommendations

As part of a consideration as to whether a vessel involved in an accident will be allowed to come in to Singapore, a demand may be made for P&I security, and P&I cover would of course also depend on Class

Class and the Sale of a Vessel

When buying a ship, the prospective purchaser will want to know about the vessel's Class and its Class Record history

It needs to be kept in mind, however, that Class attends for the specific purpose of a Class – and this may not include checking other matters which a Purchaser is interested in

Financiers of vessels will also usually specify that a vessel must be classed as part of continuing warranties contained in the loan agreement

Class and Claims



What happens after an accident ?

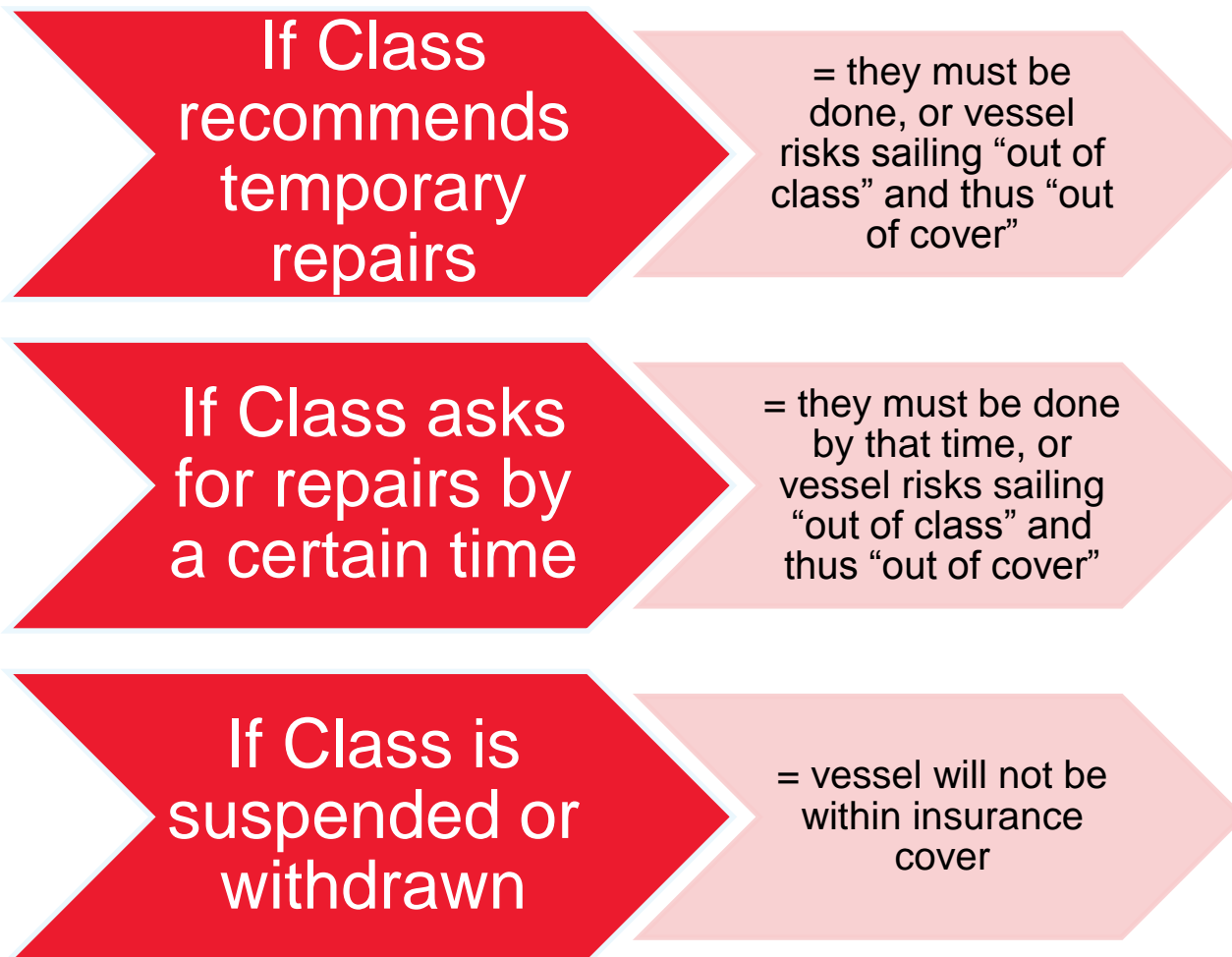
- P&I or Hull do not call Class to the scene
- Neither Insurer has a contractual relationship or influence over Class
- If Class attends to a vessel after an accident, however, it can lead to significant insurance implications



*Attendance
on location
can be
challenging !*



Impact of a Class decision following an accident



Class and Liability



Source : ITOPF

Can Class be held liable by 3rd parties ?

The basic position is that Class only has a contractual relationship with the Ship-owner for Class Survey work (Class' private function) or Flag / State Maritime Authorities for work as a "Recognised Organisation" (Class' public function)

Without a contractual relationship (be it to a 3rd party buyer, Insurer, Financier, Claimant) you need to seek to establish a "tortious" liability (civil liability)

Questions of Tort / Civil Liability Law are a matter for the respective jurisdiction in which a case is being (or may be) heard

Tortious Liability under English Law

Key criteria for liability are :

- Do you owe a duty of care
- What is the standard of care you have to exercise
- Has someone suffered a loss
- Did a failure to exercise the right standard – cause – the loss
- Is the loss proximate or too remote
- Public Policy Considerations

- If you pass these hurdles you may have a claim in tort
- BUT : there is usually no recovery for “pure economic loss” in tort

Can Class be held liable by 3rd Parties ?



- *The Morning Watch (1990) 1 Lloyd's Rep. 547*
- The Court considered whether a Classification Society in conducting a survey owes a duty of care not to cause (pecuniary) loss to persons other than the Owners
- In this case a Yacht was being readied for sale and a special survey was carried out. The sale terms confirmed she passed her survey with “no difficulty” – Subsequently, it was discovered that the Yacht had extensive corrosion in her steelwork and the Buyer sought to take action against the Classification Society on the basis that they had relied on the special survey result

The Court held that



the Class Surveyor was negligent and it was foreseeable that 3rd parties would rely on the report



the primary purpose of Class was to enhance safety at sea rather than to protect economic interests



the relationship between Class and Buyer was not close enough to give rise to a Duty of Care

The Nicholas H



- *The Nicholas H [1995] 2 Lloyd's Rep. 299*
- The ship had suffered an accident and became a total loss, including all cargo laden on board. Class had initially recommended that before she continued with her journey, permanent repairs should be carried out to cracks in the Hull. After the Owner carried out temporary repairs, Class re-attended and recommended final repairs at an upcoming Port of Call.

The House of Lords



The Shipowner is primarily responsible for making the vessel seaworthy



The Cargo Claimants had not put any reliance on the Class Report (which was a mid-voyage inspection)



Class would not be able to rely on defences and limits as Owners could



The primary function of Class was to promote safety at sea and not to protect 3rd parties against losses



If Class did not exist then Governments would have to step in and perform this function

The Redwood 2011 – 809/210



The Court in Genoa considered that a Classification Society could be held liable by a Charterer

The vessel had been classed, but was detained by German PSC leading to the vessel's detention – as a consequence the cargo had to be transshipped at significant expense to the Charterers. The Charterers pursued Class for their loss, as the vessel was sold to a 3rd party and the claim against the previous Owners was unsecured

The Court held that the vessel had been in a very poor condition and should not have been afforded the Class rating she carried at the material time, with a further finding that the Class Inspector had been negligent

It was considered by the Court that the central role played by Class in Shipping meant that 3rd parties would rely on Class certificates when making commercial decisions on whether to employ a given vessel

The decision is subject to an appeal presently still under way

Under Italian Law 314/1998, it is the case that a Class certificate not only applies to the relationship between Class and Owner, but also “becomes a characteristic of the vessel” which “confirms to third parties” that the vessel is reliable

The Erika



Source : French Navy / Associated Press

The Erika



Legal action against Class as well as Owners and Charterers

The French Courts found that Class was liable in this case

The findings concluded that the vessel was in a poor condition and should not have been permitted to sail

It was held that Class had a power of control over the vessel by deciding whether or not to deliver the class certificate for a concerned vessel

The Court of First Instance and the Court of Appeal found that on several occasion that Class failed to take “appropriate measures”, specifically refusing to deliver the class certificate or suspending the certificates, which would have prevented the vessel from sailing and thereby avoiding the pollution incident

The Erika



Class had sought to defend itself on the basis that :

Class enjoyed immunity of jurisdiction (as they acted as a delegate of the flag state of Malta, in execution of the State's public power) - the courts did not recognize this immunity, stating that Class had implicitly renounced this immunity

The action against Class would have the effect of diverting the operation of limitation of liability under the CLC/Fund Convention - the courts denied this defence by stating that the service rendered by the classification company was not a service to the vessel as per the terms of the convention

That the action under the French Penal Code provisions were incompatible with MARPOL – this was again rejected by the Courts

The Prestige



Source : Associated Press

The Prestige



Following on from the loss of the vessel and the Oil Spill, the Government of Spain sought to take legal action against the Class of the vessel, before a U.S. Court

It was held at the District Court level that under U.S. law, a classification society owes no duty to refrain from reckless behavior to all coastal states that could foreseeably be harmed by the failures of classified ships

The District Court noted that shipowners have the ultimate responsibility for certified ships, and a non-delegable duty to ensure the seaworthiness of their ships; imposing liability on a classification society for alleged reckless certification-related conduct would be inconsistent with this duty

Absent a pre-existing relationship between Spain and Class, there could be no duty giving rise to tortious liability

Class counter-sued on various points, but Spain enjoyed sovereign immunity

The Prestige



In affirming the District Court's decision on appeal, the Second Circuit did not resolve the question of whether a classification society could be held liable in tort to a third party for reckless conduct in connection with the classification of vessels.

Instead, the Court assumed, for purposes of the appeal that ABS did owe the duty to Spain, and concluded that Spain had failed to present sufficient evidence to create a genuine issue as to whether ABS recklessly breached that duty.

The Court first conducted its own choice of law analysis and confirmed that the maritime law of the United States should govern the action.

The Court then concluded that Spain had not adduced sufficient evidence to allow a reasonable jury to conclude that ABS should be liable to Spain in this particular case.

Again, the Second Circuit expressed no opinion on whether a classification society, in the proper circumstances, could be liable to a coastal nation for reckless conduct.

EU Legal Developments



EU Directive 94/57/EC relating to “common rules and standards of ship inspection and survey organisations and relevant activities of maritime administrations”

Following the MT ERIKA, EU Directive 2001/105/EC was issued to amend the 94 Directive

The Directive now provides that maritime administrations can claim compensation from classification societies in the event of wilful acts or gross negligence which cause a liability to be incurred by the maritime administration (Article 6 (b) (i))

It is worth remembering that this only applies to the EU and only to claims by maritime administrations against Class

This is not an open door for 3rd party claims against Class, but it may have started the process of opening that door

Class should not be held liable by 3rd parties, because ...

Owner is primarily liable and responsible to ensure a given vessel is seaworthy and compliant with national (Flag) and international (SOLAS, etc.) standards

Owners should not be able to offload their responsibility, even in a case where Class may shoulder some fault

Class does not act as a guarantor of the vessel's condition

Class may be "not for profit" - indeed may be a registered Charity - and fees charged do not compare to possible liabilities

Class does not have the ability to limit liability like an Owner can under LLMC 76 or Hague-Visby Rules or other limitation regimes

If Class were to be held liable, they would need insurance and thus drive up costs and lead to double insurance for the same liabilities

Liability would mean Class may restrict their services in the future and change the nature of the relationship with Owners : which is meant to be open and non-competitive

Class is regulated informally (Insurers asking for IACS Class) and formally by way of EMSA assessment

Class should be held liable by 3rd parties, because ...

Classification Societies, even if “not for profit”, can be very profitable enterprises and are paid by the people whose vessels they inspect and “class”

Liability for errors and omissions can be insured against

Holding someone accountable compels them to raise their standards : that is more effective than self regulation

Sub-standard Organisations would go out of business, leading to a longer term improvement of the Safety of Life at Sea

3rd parties do rely on representations as to Class for a vessel

The Owner's responsibility of making sure the vessel is seaworthy is quite separate from Class' responsibility to not be negligent in its surveys

The consequence of an unseaworthy vessel having a casualty can be catastrophic

Future Considerations

Will Governments and other Claimants drive towards greater liability for Class

Would Class need to obtain Insurance against such liability

How high would the limits have to be

Is such insurance obtainable

What would it cost

How would this cost feed back in to the Industry

Would other service providers to ships face similar demands for liability

Are we prepared, as a global economy, to shoulder increased shipping costs

SKULD

INNOVATIVE INSURANCE PRODUCTS AND SERVICES

