

## P&I COVER FOR CREW FOLLOWING AN INCIDENT

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- Club cover extends to virtually all liabilities facing a shipowner in connection with the operation of an entered ship.
- Cover in respect of crew casualties is fundamental to P&I cover
- Fatal Accident Act 1846 one of the main factors in the development of P&I insurance
- Crew risks typically account for over 30% of all claims

## Covered Crew Risks

- Damages or compensation for death, injury or illness
  - Medical or funeral expenses
  - Repatriation
  - Crew substitutes
  - Shipwreck unemployment indemnity
  - Deviation expenses
  - Loss of baggage and personal effects
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## Basis of Cover

- Legal Liability
  
  - Approved contracts of employment or collective bargaining agreements
  
  - Extends to period whenever crew member “at call of the vessel”
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## Limits

- Until recently, crew liabilities covered on full mutual basis
  - Cover now limited to \$3,000,000,000 for any one incident
  - Equivalent to \$100,000,000 per person
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## Scope of Cover

- Club cover extends to liabilities of entered vessel/shipowner, not individual crew members
  - Cover may encompass actions against individual crew members to the extent that they are being targeted:
    - as the alter ego of the shipowner
    - as to the extent that the shipowner is vicariously responsible for their actions
    - if beneficial to the shipowner's legal position
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## Criminalisation

- P& I cover does not extend to criminal liabilities
  - Growing wave of criminal legislation governing civil matters
  - Consideration of cover for such incidents will depend upon the circumstances
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- Ever increasing level of criminalisation of shipping in general and crews in particular.
  - Lack of public appreciation of the importance of shipping in all areas of life
  - Crews are generally highly trained, highly regulated and often working in dangerous and difficult conditions
  - In the event of a casualty, even if due to simple error, ships' crews often treated harshly
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## U.S. Airways flight 1549



- On 15<sup>th</sup> January 2009, U.S. Airways flight 1549 took off from New York bound for Charlotte
- During take off, both engines disabled due to “bird strikes”
- Airplane landed in the Hudson River and all 155 passengers and crew were saved
- Aircrew given freedom of the City of New York
- Pilot – Chesley Sullenberger – received personal thanks from George Bush and Barack Obama

## Heibei Spirit



- On 7<sup>th</sup> December 2007, the laden tanker “Heibei Spirit” at anchor off Daesan, South Korea
- Crane barge being towed by 2 tugs sustained broken tow ropes and drifted in to “Heibei Spirit”
- Vessel lost 10,800 mt of crude oil but no injuries or loss of property
- “Heibei Spirit’s” master – Jasprit Chawla – and C/O – Syam Chetan – held in custody until 15<sup>th</sup> January 2009, despite being found entirely blameless in June 2008

- Not an isolated case:
  - Captain Mathur – master of Erika initially imprisoned and detained for 3 months in France
  - 7 crewmembers held in Pakistan for 9 months following the grounding of the Tasman Spirit at Karachi
  - Captain Mangouras jailed for 83 days, only released on Euro 3 million bail and still prohibited from leaving Spain for 2 years following the Prestige casualty
  - B Atlantic/Astro Saturn crew members sentenced to 8 years following the discovery of drugs attached to the vessel's hulls in Venezuela.
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- In such cases, Clubs can:
  - Arrange for legal representation of the crew members and possible bail
  - Cover fines to the extent that they relate to a matter falling within the Rules
  - Assist in publicizing the crew's situation together with other industry bodies
  - However, there is a general need to improve the image of shipping.
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