

INSTITUTE OF CHARTERED SHIPBROKERS

APRIL 2009 EXAMINATIONS

WEDNESDAY 29 APRIL – AFTERNOON

MARINE INSURANCE

Time allowed – Three hours

Answer any FIVE questions – All questions carry equal marks

1) Discuss the following with regard to marine insurance contracts:

- a) Protection and Indemnity Clubs ('P and I Clubs')
- b) Role of a *original slip* in marine insurance
- c) Concept of *Contingent interest* in relation to cargo covers
- d) Concept of *Sympathetic Damage*

- 2) a) Discuss the role of '*warranties*' in a contract of marine insurance?
b) 'An implied warranty of seaworthiness does not affect a time policy'

Discuss this statement in a context of the Marine Insurance Act 1906.

- 3) A vessel MV '*Star Track*' is covered by a time hull policy, which provides as usual a cover to the vessel in case of fire, perils of sea etc. The vessel has four holds. The vessel loaded a parcel of bulk soft coal in the hold 1 and the hold 3 at Newcastle, Australia. The other remaining holds were loaded earlier with self-contained containers at Colombo. During a voyage towards Dalian in China, it was observed that fire was raging in the hold 3. The Chief officer of the vessel also observed that the temperature of cargo in the hold 1 was also gradually increasing. Further observations revealed that a few containers in the hold 2 and the hold 4 also sustained damage. In addition, due to excessive heat and temperature in the hold 1 and the hold 3, the vessel's hull also suffered serious damage to the hull.

Reports prepared by experts after the incident seem to indicate that the parcel of coal, which was loaded is notorious for spontaneous combustion of its own, and therefore no external interference was required to set it on fire. However, these expert reports also suggest that fire in the hold 3 and the excessive temperature in the hold 1 could have been prevented if the crew of the vessel would have ventilated its holds adequately.

....contd

A few expert reports also seem to suggest that the crew and the technical management of the vessel did not properly maintain the ventilators on board the vessel, and therefore it was not possible on board the vessel to ventilate the holds and the cargo adequately.

In light of various claims by the cargo owners and the ship owner, the following insurers seek your expert advice pursuant to Marine Insurance Act 1906:

- a) Cargo insurers for parcel of cargo in the holds 1 and 2
 - b) Cargo insurers who had insured various containers separately
 - c) Hull insurers for vessel MV Star Track
- 4) Discuss the difference between the concepts of '*total loss*' and '*constructive total loss*' in relation to both the hull and the cargo policies.
- 5) Discuss the following in relation to the concept of *general average*:
- a) General Average bond
 - b) Contributory interests
 - c) Extraordinary sacrifice and expenditure
- 6) a) Discuss the meaning of *PPI policies* in the context of marine insurance.
- b) A ship owner decides to mortgage his ship. Is it possible for a Mortgagee to get a marine insurance cover from the market?
- c) What subject matter are covered pursuant to the 'Disbursement marine policies'?
- 7) a) What is the meaning of *held covered* clause in the context of marine insurance policies?
- b) Discuss the importance of concept of *subrogation* in the context of marine insurance policies?
- 8) Discuss the following in relation to the International Hull Clause (Cl.601-01/11/03) and Institute War and strike clause (Cl. 281, 96, hull time) and standard cargo policies :
- a) Open cover policies
 - b) Clause for assignment of a policy
 - c) Forwarding Charges Clauses in standard cargo policies
 - d) War and Strike Exclusion Clause

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MARINE INSURANCE (MI)

2009

EXAMINER'S REPORT

OVERALL COMMENTS

The overall standard of the written papers was good, showing that candidates have a good commercial knowledge and they can apply that knowledge within the framework of marine insurance. However, in order to score even higher, candidates have to put in more efforts and have to detail out relevant sections from Marine Insurance Act 1906 and various case laws. Questions were designed to cover all the major principles of Marine Insurance and covering both hull and cargo policies..

QUESTION 1 - BASIC AREAS OF MARINE INSURANCE

It comprised of four sub-parts and was a popular question. This question basically covered most important and basic areas of marine insurance. Some candidates chose to answer each sub-part in detail and that may have affected them in relation to time remaining for answering other questions. Nevertheless, most candidates that answered this question nearly got around 60%. The only sub-part where candidates' marks were less than average was for their answers on '*sympathetic damage*'.

QUESTION 2 – WARRANTIES OF SEAWORTHINESS

The candidates who secured good marks for this question were those who clearly discussed the salient features of warranties along with issues, such as insurer would still be liable to indemnify the assured for a insured loss if that occurred before the breach of the warranty. Good answers discussed the relevant sections 33-41 from MI 1906 and various types of implied warranties. A few candidates even discussed the subtle difference between the concept of utmost good faith and warranty. The qualifications in time policies should have been discussed according to sec 39 (5) of MI Act 1906

QUESTION 3 - PROBLEM QUESTION – FIRE ON BOARD

Of the few candidates attempted this question, the answers varied from a very good to below average. The question required a discussion of *inherent vice* of the cargo (statutory exclusions), possible unseaworthiness due to damaged ventilators, proximate cause and how it is related to the insured peril. More marks were awarded to candidates who discussed the issue of the warranty arising due to a breach of implied warranty of unseaworthiness and its effects. Such types of questions test the application of knowledge of candidates.

QUESTION 4 - TOTAL LOSS AND CONSTRUCTIVE TOTAL LOSS

Candidates who obtained good marks discussed in detail both the concepts of Actual Total loss (sec 57-58) (destruction, loss of specie, irretrievable deprivation), missing ship and Constructive Total loss (sec 60-62) was discussed in detail. A comparison of both was required in the context of hull and the cargo policies to secure good marks.

QUESTION 5 - GENERAL AVERAGE

Any discussion of marine insurance is incomplete without that of General Average. Most candidates discussed the salient features of general average well in relation to the questions. It is important to appreciate that ship owners exchange the lien over the cargo with such a bond when releasing the cargo. Contributory interest are calculated based on the contributory values of ship, cargo, bunkers for the time chartered, freight etc and a few examples where required. It is important to appreciate that on a time chartered ship the bunkers belong to the time charterers. Also a good answer should have demonstrated that expenditure or a sacrifice need to be *extraordinary*.

QUESTION 6- INSURABLE INTERESTS

Some candidates were not clear about the concept of Insurable Interest. A discussion of sec 6 and sec 4 was required for the answer on PPI policies. The answers for part b and Part c were relatively straightforward.

QUESTION 7 - HELD COVERED AND SUBROGATION

It was important for candidates to appreciate that additional premium for additional hazards are needed. Candidates should also appreciate that at the same time without held covered clauses, it is commercially impossible for the assured to predict all hazards during the currency of any charter party. A discussion on sec 31 safeguards against an unreasonable premium being charged by the insurers.

An example would have helped the candidates to earn more marks. Reference to Sec 78 and how the insurers get all the rights was needed to get good marks. While discussing the subrogation, it was important for the candidates to have discussed the principle of contract of indemnity.

QUESTION 8 - CARGO POLICIES, HULL POLICIES AND INSTITUTE WAR AND STRIKE CLAUSES

A good answer would have compared open cover cargo policies with that of facultative cargo policies with examples. A discussion was also needed on the issue that an agreed notice of such assignment should be endorsed on the policy. The remaining two sub-parts were well answered. It is important to ensure that one answers *all* sub-parts to question of this type, otherwise serious loss of marks ensues.

CONCLUSION

There was considerable number of candidates who scored over 60 marks in this paper. This is considered as good marks in marine insurance. The highlight of these papers were demonstration of comprehensive study, citation of relevant case law and statutes, use of examples to convey the salient feature, reasonable handwriting and above all managing time well during the paper. It is important to study all areas of marine insurance rather than concentrating on just a few chapters.