

Brussels a threat to P&I system warns Archibald

Marsh executive accuses EC of promoting blame culture, writes James Brewer in Tokyo

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A SHARP attack on the reactions of the European Union to maritime casualties was delivered at the IUMI 2006 Tokyo conference by a leading marine insurance broker.

Criticising Brussels for joining in the blame culture that is affecting more than ever the shipping industry, Anthony Archibald, senior vice-president in London for marine and energy at Marsh, catalogued rising liabilities attaching to shipowners.

Compensation arising from a hypothetical smash involving a cruiseship and chemical tanker could already total around \$2bn, he made clear.

"Political responses to shipping incidents heap more pressure onto an industry which is already one of the most highly regulated in the world," he said.

"A good example of this is the three packages of measures introduced by the European Commission following the Erika incident.

"The European Commission is clearly determined to restrict, as much as possible, the shipowner's right to limit his liability.

"Most shipowners would consider limitation as a centuries-old fundamental right. For the P&I clubs and their reinsurers, limitation underpins the whole rating structure.

"The European Commission is a threat to the stability of the P&I clubs and their reinsurers, and will remain so for the foreseeable future."

With increased shipowner liabilities established in the past few years and others shortly to come into force, this will be "a serious concern for the insurance industry and is guaranteed to increase claims levels," said Mr Archibald.

Limitation is designed to give shipowners a reasonable level of protection from the financial consequences of a catastrophe and has already been pushed too far in the view of most of the shipping world.

Representatives of the International Group of P&I Clubs present at the conference were optimistic that the scenario could turn out to be less abrasive than that outlined by the Marsh expert.

While concerned over the build-up and detail of legislation, which has led group representatives to lobby Brussels for moderation, they said US experience has shown legislative changes do not have to mean huge liability payouts and EU member states' attitudes might lead to the third maritime safety package being left on the back burner.

Mr Archibald complained, however: "The priority of governments now is not the use of limitation as a means of encouraging trade and protecting the shipowner.

"The priority is that, in the event of a high-profile incident, limitation can be used or abused so that the industry can pick up the whole compensation bill rather than any falling on governments."

He said although the abolition of limitation is a threat, the limits already in force in many spheres are now so high that limitation is only of marginal benefit.

He drew up an outcome of a notional collision between a chemical tanker and a cruiseship, in which 20 people are killed, 100 injured, the cruiseship's bunker tanks breached and the tanker spills cargo, killing 20 other people.

The chemical tanker owner would be strictly liable up to \$20.9m for pollution, the Fund Convention would provide \$283m, the Supplementary Fund a further \$821m; the cruiseship owner is strictly liable under the Bunker Convention for pollution damage but could limit his liability to \$40.8m; passenger injury under the Athens Convention would produce a claim of \$102m, and passengers killed by the chemical spill would mean compensation under the Hazardous and Noxious Substances Convention of \$375m.

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