



The Shipowners' Protection Limited
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Managers of
**The Shipowners' Mutual Protection and
Indemnity Association (Luxembourg)**

TO ALL MEMBERS

December 2011

CAN MEMBERS RELY SOLELY ON KNOCK FOR KNOCK FOR PROTECTION?

Club cover extends to liabilities arising out of towage of another vessel or object by an insured vessel. Liability for loss of or damage to or wreck removal of the towed vessel or object or any cargo or property thereon is excluded unless the insured vessel is towing under an approved contract (Rule 2 Section 10 C). The Note to section 10(C)(ii) lists approved contracts and clarifies the nature of 'knock for knock' clauses.

Members who are regularly involved in towage of third party vessels will therefore be aware of the pre-requisite nature of knock for knock clauses in their towage contracts. Knock for knock clauses have the benefit of certainty and avoid costly and time consuming litigation. Members should not however be complacent about escaping liability in situations where they have these types of clauses in their contracts.

We consider there to be potential for Member liability despite the existence of a knock for knock clause in an approved towage contract. By way of example, consider for instance that a Member's vessels, engaged in towage activities, enters into an approved BIMCO International Ocean Towage Agreement (LUMPSUM) TOWCON for intercontinental towage of a third party vessel. During the tow the towline parts and the towed vessel drifts towards the coastline where the tow ultimately grounds. Although initially it would appear under TOWCON clause 18(2)(b) that all loss and damage suffered by the tow would be apportioned to the tow owner, there is potentially scope for Member liability where it later transpires that the tow owner has not secured P&I/H&M insurance on the tow as required by the TOWCON. This could then leave Members exposed to wreck removal costs, pollution control and monitoring costs, arrest orders, cargo claims and provision of security for the same.

Such liability could arise from a simple failure by Members to follow up with the owner of the tow, who promised to organise P&I insurance before departure, to ensure that such insurance cover is in place.

We strongly recommend that Members, who are engaged in such towing operations, always check that there is adequate P&I and H&M insurance in place for the tow and that evidence of such insurance is seen and approved prior to entering into towage contracts.

Yours Faithfully,
For The Shipowners' Protection Limited
(As Managers)

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