

SKULD  
MAGAZINE

DECEMBER 2008 / ISSUE 192

# BEACON

## FIGHTING SPIRIT

ACHILLEAS APPEAL / 14  
BUNKERS CONVENTION / 17



**Douglas Jacobsohn**  
President & CEO

## LONG-TERM STRATEGY

As we go to press, the financial market crisis clearly emphasises the necessity for Skuld's long-term strategy of not relying on investment income to cover running expenses and underwriting losses.

Long-term impacts are hard to predict. However, we can expect the financial sectors to be trimmed down with a greater focus being placed on business regulation as the world moves forward. We are committed to stand by our long-term investment policy while keeping a close watch on the risk-bearing capacity of the club.

### NEW SKULD PROFILE

This is the first issue of Beacon in the new Skuld style. We are now bringing the magazine in line with Skuld's new corporate identity – as seen already on our website. In addition to the new look, we intend to focus on topics that affect shipping and our industry in the hope of initiating an industry dialog.

### FIGHTING SPIRIT

One of these topics is the approach to emergency response and managing risk. This issue's cover story features the Hebei Spirit oil spill on the coast of South Korea last December, as well as Skuld's handling of the case throughout 2008. Our swift and professional handling of the incident has won positive responses from both authorities and the shipping community.

Other topics in this Beacon include the Bunkers Convention, and the general issue of compulsory insurance – and a behind the scenes look at this summer's landmark decision by the House of Lords in the Achilleas Charterers Appeal.

We wish you good reading.

DOUGLAS JACOBSONH

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## SERVICE AFTER SIGNING

For three days in early October, over 100 shipping people came together with a common purpose – to expand their knowledge of P&I Insurance. The Skuld School team was there.





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## FIGHTING SPIRIT

In heavy seas off the South Korean coast, a massive crane barge rammed the fully laden VLCC oil tanker Hebei Spirit in what was to become one of the largest spills of recent times.



# 14

## LANDMARK HOUSE OF LORDS DECISION

The decision by the House of Lords followed an original arbitration and subsequent appeals – during which Skuld stood by our member. With a difference in damages of over USD 1 million.

A DAY IN THE LIFE  
HEBEI SPIRIT INCIDENT

The Korean military collected tar in huge vats on the South Korean Taean Coastal shoreline as part of one of the most massive clean up efforts of modern times. PHOTO: ITOPF





# FIGHTING SPIRIT

AT 0700 IN THE MORNING LOCAL TIME ON FRIDAY, DECEMBER 7  
LAST YEAR - IN HEAVY SEAS OFF THE SOUTH KOREAN COAST  
- A MASSIVE CRANE BARGE RAMMED THE FULLY LADEN VLCC OIL  
TANKER **HEBEI SPIRIT** IN WHAT WAS TO BECOME ONE OF THE  
LARGEST TANKER SPILLS OF RECENT TIMES.



CONTRIBUTIONS BY  
Paul Bo Lange Skuld Oslo  
Sandro Vuylsteke Skuld Copenhagen  
Nicola Mason Skuld Hong Kong  
Sebastian Walldén Skuld Oslo  
Brad Larson Skuld Oslo

# FIGHTING SPIRIT

Nearly 11,000 tonnes of oil spilled in what was South Korea's worst pollution incident ever. What sort of challenges did Skuld, the Hebei Spirit's P&I insurer, face in the first hours and days after the incident? And what can we learn from Skuld's proactive approach to handling this case?

"It was the smell that got to us," observed Paul Bo Lange, Skuld's Head of Loss Prevention & Risk Management, based in the Skuld head office in Oslo. "Suddenly, even though we still had seven kilometres to go on our trip to the coast on that first morning after the incident, there was already the overwhelming smell of oil."

Despite many years of experience with maritime casualties, the four passengers in the car were hardly prepared for the sight that met them as their vehicle reached the Korean Taean Coastal shoreline.

"At the coast you normally see a mass of blue-green broken up by white," said Paul. "What struck us was there was only black as far as the eye could see."

## ITOPF SUPPORT

Two of the passengers in the car were representatives from the International Tanker Owners Pollution Federation (ITOPF).

They had flown out from London the day before after being notified of the accident by Paul at around 0400 that morning. They teamed up with Paul in Frankfurt, where they were also joined by Sandro Vuylsteke, a maritime lawyer working for Skuld in Copenhagen, who would be providing the initial local legal support on the incident. The four arrived within 24 hours of being notified of the accident by Nicola Mason in Skuld's Hong Kong office.

ITOPF's priority service is responding to accidental marine spills. The organisation's team of highly experienced technical staff are at a constant readiness to travel anywhere in the world at a few hour's notice. Since 1978, ITOPF staff have attended on-site at approximately 600 incidents around the world, giving the organisation unparalleled practical experience in the realities of combating major marine spills.

## "IN SUCH CIRCUMSTANCES, HOURS AND MINUTES COUNT"

The Hebei Spirit is a Skuld Member through the Hong Kong Syndicate. Nicola – who is Vice President and Deputy Head of the Far East Syndicate, as well as a maritime lawyer – was therefore appointed Casualty Coordinator for the incident.

## HOURS AND MINUTES

In such circumstances, hours and minutes count. Following the collision at 0700 in the morning local time, the owners of the Hebei Spirit contacted Skuld within two hours. Skuld Hong Kong initiated the casualty response by 0920 (1020 in Hong Kong and 0220 in Oslo) and Skuld's local lawyers and our South Korean correspondent sent instructions to the owner and crew on a preliminary approach to the incident.

By 1300 local time (0400 in Oslo), the Skuld on-site team established contact with ITOPF. Skuld also contacted the International Oil Pollution Compensation (IOPC)

## HOUR BY HOUR THE HEBEI SPIRIT INCIDENT

### FRIDAY 07:00 DECEMBER 7, 2007

A massive floating crane barge ramps the fully laden VLCC oil tanker Hebei Spirit in heavy seas off the South Korean coast. This is one of the largest tanker spills of recent times. At 09:00 (local time), the owners of the Hebei Spirit contact Skuld.



The spill occurred near Mallipo Beach, in Taean County, considered one of South Korea's most beautiful and popular beaches. PHOTO: KOREAN NEWSPAPER, DAEJONILBO.COM

### FRIDAY 09:20 DECEMBER 7, 2007

A casualty response is initiated (10:20 in Hong Kong and 02:20 in Oslo) and local lawyers retained by Skuld and our correspondent from the closest port send instructions to the owner and crew on a general approach to the incident.

### FRIDAY 13:00 DECEMBER 7, 2007

(04:00 in Oslo) The Skuld on-site team establishes contact with ITOPF, who give support on pollution response, and then with the IOPC representatives who handle one of the Funds for making reimbursements to those affected by the spill along with Skuld.

HEBEI SPIRIT INCIDENT



Map of shoreline contamination resulting from the Hebei Spirit oil spill. ILLUSTRATION: ITOFP

**ENVIRONMENTAL IMPACT**

- / 10,800 tonnes of a mix of export crude oils were spilled, following the ramming of the Hebei Spirit on December 7, 2007. The ship's total load was 260,000 tonnes.
- / The spill was one-third the size of the Exxon Valdez oil spill, Korea's largest spill ever and one of the largest spills in recent times
- / The spill occurred near Mallipo Beach, one of South Korea's most popular
- / More than 30 popular beaches and over 375 kilometres of coastline were affected
- / Over half of the region's over 400 fisheries and marine culture farms appear to have been affected by the spill
- / Tar balls reached islands over 375 kilometres south of the spill site

secretariat which handles the 1992 Fund for making reimbursements to those affected by the spill along with Skuld. The IOPC also has extensive experience in dealing with maritime incidents. Media and on-site response was initiated early on Saturday, December 8, with additional legal expertise from Hong Kong being appointed the following day.

**THE SKULD RESPONSE**

There were two main areas of concern: the damage to the environment and the condition of the vessel and crew. The response team was deployed in such a manner that both these areas were dealt with simultaneously. One part of the team was allocated to helping the master and crew assess the damage to the vessel, assist with pollution prevention measures and guiding them through how to deal with the local authorities. The Master and crew had been the target of an aggressive investigation, in spite of the fact that their ship was at anchor in the properly designated anchor location. The Hebei Spirit had in fact done more than could be expected of it to avoid collision when the Samsung-owned crane barge rammed the Hebei Spirit after the barge's tow line snapped and parted.

In parallel, the Skuld on-site response team started assessing the damage and advising how best to deal with it. They also began work to establish the Hebei Spirit

Centre (HSC) local office. The HSC is responsible for the administration and registration of all claims and the coordination of local and international experts working in the immediate spill area and throughout Korea.

In Taean, Skuld and the International Oil Pollution Fund established several specialized offices with over 40 experts and surveyors, all of whom worked together to assess the damage and assist claimants with processing and investigating their claims. The on-site teams also established a specialised tourism office in Taean, with a team of well qualified international and local surveyors and experts trained to deal specifically with tourism claims.

**FIRST COOPERATION AGREEMENT**

On January 6, after three days of negotiation, a Cooperation Agreement was drafted and signed between Skuld and the South Korean Government, in which Skuld would pay USD 12 million by February 5 toward immediate labour costs incurred in the shoreline cleanup operations. If Skuld was not able to recover these payments because the amounts available from the various funds did not meet all compensation costs, then the Korean Government agreed it would reimburse Skuld for its losses.

This novel approach was a win-win agreement for all parties. Funds were made available immediately for cleanup and hardship payments, and the vessel

**SATURDAY**

DECEMBER 8, 2007

Media and on-site response is initiated early on Saturday morning. The Skuld on-site team continues its evaluation of the incident and provides support to the Hebei Spirit's Master and crew. The next day additional legal experts from Hong Kong are appointed

**THURSDAY**

DECEMBER 20  
– JANUARY 15, 2008

The on-site team continues to provide support to the Master and Crew of the Hebei Spirit as they go through tough interrogation from the Korean authorities. On December 23, 2007 the Hebei Spirit vessel is arrested with a possible auction to follow



Volunteers work to remove some of the over 10,000 tonnes of export crude oils spilled following the ramming of the Hebei Spirit. PHOTO: ITOFP

**SUNDAY**

JANUARY 6, 2008

First Cooperation Agreement between Skuld and the South Korean Government is signed and the Vessel is released. Skuld makes available USD 12 million by February 5 toward immediate labour costs incurred in the shoreline cleanup operations.



More than 50,000 volunteers worked per day – with this number passing the 1 million mark in early January. No detail was overlooked in the massive clean up effort.  
PHOTO: ITOPF



## “THIS NOVEL APPROACH WAS A WIN-WIN AGREEMENT FOR ALL PARTIES”

was released, leaving for international waters and repairs in China. Both the owners and the managers of the Hebei Spirit expressed their appreciation for Skuld’s proactive approach to the negotiations with the Korean Government.

Korea is a party to the international system of compensation for oil pollution by tankers established by the Civil Liability Convention (CLC) 1992 and the Fund Convention 1992. Under these conventions, payment of proper claims is guaranteed by the insurer of the ship and by the IOPC Fund.

### PRESSURE ON THE CREW

One aspect of the situation was disappointing. Even though clear compensation procedures are recognised under international conventions, the Korean Government moved to arrest the Hebei Spirit and began auction procedures on the vessel – undoubtedly responding to heavy political pressure.

“Skuld took immediate action, suggesting a high level meeting in Korea with the Government, the IOPC Fund, ITOPF and Skuld where it launched the idea of entering into a cooperation agreement with the Government,” says Nicola Mason. “This move recognised the intense pressure the government was under to secure funds for environmental cleanup and hardship payments for all those whose livelihoods were affected by the spill.”

### SECOND COOPERATION AGREEMENT

A landmark Second Cooperation agreement was signed with the Korean

Government on July 4, 2008. This agreement ensures that Skuld is able to pay compensation to the victims of the Hebei Spirit incident quickly, while working within the framework of relevant international conventions and local law.

Such an unprecedented agreement avoided a payment problem. Skuld’s proactive assistance to the Korean Government enabled all parties to find a way around compensation difficulties in an extremely complex case. Under the agreement, Skuld complies with its obligations under the CLC Convention and Korean law – and is able to make swift and efficient payments to the victims rather than having to tie up compensation funds in the court.

“The natural tendency is to wish to pay full compensation as soon as possible,” Nicola observes, “although there were a number of hurdles to overcome.”

She explains that due to national legal requirements and the international conventions regarding the overall limit of payments, ordinarily only a percentage of the total compensation could be made available immediately. This is to avoid the risk that early claimants get full payment, while those coming later receive little or no compensation because there are no more funds – a situation that would be patently unfair.

The risk was that Skuld could have been required to make a payment equal to the Civil Liability Convention (CLC) into court. This would mean that Skuld would not

## MONTH BY MONTH THE HEBEI SPIRIT ACCIDENT

»



Many different oyster rack structures were oiled in the spill – with many fisheries and marine culture farms losing their stocks. PHOTO: ITOPF

### JANUARY 14, 2008

The Hebei Spirit Centre is established, facilitating the first hardship payments in the case. As of today, about 50 people are involved in processing claims estimated to reach more than 100,000 claimants and total more than USD 550 million. The Centre can be in operation for up to four years.

### FEBRUARY 5, 2008

USD 12 million is dispursed to over 150,000 people in payments in support of the clean-up effort and also hardship cases. Many of the local fishermen who were victims of the spill were utilised and paid to take part in the clean-up operation.



The first step on the road to recovery is a well conducted clean-up operation. Many local fishermen were paid to take part. PHOTO: ITOPF

## “WE WANT TO GET CLAIMS MADE AND PAYMENTS SETTLED SWIFTLY”

be allowed to make payment to victims. It then might take several years before the courts are in a position to distribute the funds – an obviously undesirable situation.

### STATUS – THE MASTER & CREW

Skuld’s support for the Master and crew has been greatly appreciated by the owners and managers of the Hebei Spirit. All the crew except the Master and Chief Officer have been released. In July this year the Master and Chief Officer were found innocent of all charges of violating the nation’s ocean pollution law following the oil spill.

However, despite their acquittal, the Korean courts have still been determined to detain them – for as long as a year – depending on further hearings. Organisations from across the world’s shipping industry issued a vigorous joint protest to what they have called the continuing unjust and unreasonable detention of the two merchant ships’ officers. Skuld continues to work for the officers’ release.

### THE HEBEI SPIRIT CENTRE

“We in Skuld feel a real admiration for the Korean people, including the many volunteers cleaning the beaches who have dealt with this tragedy in such an honourable and courageous manner,” says Sebastian Walldén, a Claims Executive with the Oslo office and – along with Sandro Vuylsteke – part of the team running the Hebei Spirit Centre and managing claims payments.

“We feel sympathy for all those whose livelihoods were affected by the tragic event, and are also saddened by the environmental damage that resulted,” he added. “It’s still encouraging to see the progress that is being made with the clean-up efforts. Our motivation is to get claims settled and payments made as swiftly as humanly possible.”

As of last month, the clean-up operations were completed on the shorelines polluted by the Hebei Spirit incident. “We’d also like to express our appreciation to our correspondents and surveyors in South Korea,” says Sebastian. “They have done an impressive job in difficult and demanding circumstances.”

Today, about 50 people are involved in processing claims estimated to reach more than 100,000 claimants and total more than USD 550 million.

### READ MORE

[www.iopcfund.org](http://www.iopcfund.org)  
[www.itopf.org](http://www.itopf.org)  
[www.wikipedia.org](http://www.wikipedia.org)  
[www.youtube.com](http://www.youtube.com) (search Hebei Spirit)

## JULY 4, 2008

The landmark Second Cooperation Agreement between Skuld and the South Korean Government is signed. Its unique approach makes it possible to pay compensation to the victims of the Hebei Spirit incident quickly while working under the framework of international conventions and local law.



Skuld and the Korean Government representatives shake hands following the unique Second Cooperation Agreement.

### THE KOREAN SPIRIT

## THE KOREAN PEOPLE JOINED IN A HUGE MANUAL CLEAN-UP EFFORT

<b>10,000</b> Up to 10,000 local villagers and fishermen a day were involved	<b>50,000</b> More than 50,000 volunteers worked per day, with volunteers topping the 1-million mark in early January	<b>20,000</b> The clean up utilised over 20,000 vessels-days	<b>350</b> More than 350 helicopter flights and nearly 30,000 heavy machinery unit-days were used	<b>1,000's</b> The Korean military contributed thousands of man-days over the course of six weeks
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### FACT FILE

## INTERNATIONAL COMPENSATION FUNDS & PAYMENT TO VICTIMS

MILLION USD

**140**

**P&I COVERAGE** Under International Conventions, Skuld – backed by the International Group of P&I clubs – funds 100% of all claims up to a limitation of USD 140 million

**10**

**ADDITIONAL INTEREST PROVISION** Skuld has also allocated additional funds as necessary for interest on claims that covers the period between the incident date of December 7 last year and the payment date

**180**

**IOPC FUND** The International Oil Pollution Compensation (IOPC) Fund then compensates 35% of the claims up to their limit of approximately USD 180 million

**330**

**TOTAL P&I PAYMENTS & FUNDS** So the total funds available for compensation reach around USD 330 million. The Korean Government is not a signatory to a convention that would have provided even more compensation coverage

**450-500+**

**ESTIMATED TOTAL COST OF THE INCIDENT** As the cost for compensating victims of the incident will go over USD 330 million, the Korean Government, under the Second Cooperation Agreement with Skuld, has agreed to guarantee payment of all compensation above that amount

### INTERNATIONAL TANKER OWNERS POLLUTION FEDERATION

## ITOPF

**/ LONDON-BASED ITOPF** is a respected non-profit organisation involved in all aspects of handling spills of oil and chemicals in the marine environment.

**/ ITOPF** was originally established in 1968 following Torrey Canyon incident to administer the voluntary compensation agreement covering those affected by oil spills.

**/ NOW HAS OVER 5,000** tanker owner-members who operate 8,800 vessels with a total gross tonnage in excess of 252 million gt. Other types of ships with a tonnage of more than 405 million gt are associate members.

**/ DEVOTES CONSIDERABLE** effort to a wide range of technical services – the most important is responding to spills of oil and chemicals – its response team is at constant readiness to assist at marine spills anywhere in the world.

**/ ALSO PROVIDES** damage assessment, claims analysis, contingency planning, training and database information.

## ORGANISING FOR MAJOR INCIDENTS

# ADDING VALUE FOR OUR MEMBERS

### THE SKULD VALUE CHAIN



PHASE  
**1**

#### ASSESSING THE RISK

We offer innovative insurance products and services



PHASE  
**2**

#### SERVICE AFTER SIGNING

We offer fast, personalised, professional and hands-on solutions

A major incident can strike anyone. Should such an event happen, Skuld will be there. Our Casualty Response system is a dynamic and flexible organisational tool for dealing with the crucial early stages of a major event – and then following it through the entire life cycle of the incident.

Let's take a closer look at how Skuld adds value for its members. Its Value Chain includes five phases – from risk assessment and service after signing, through claims and incidents, major incidents, and finally re-assessment.

Skuld's handling of the Hebei Spirit case falls mainly in Phase IV – the major incidents phase.

Our members can draw on an impressive combination of both in-house legal talent from many jurisdictions, as well as those with extensive seafaring experience. The resulting Skuld team works to minimise the negative impact of the incident while co-ordinating and controlling the overall response to a casualty, establishing clear lines of communication with the member and public authorities, and helping to manage relations with the media.

#### EXTENSIVE EXPERIENCE

Extensive experience handling major incidents over the past 20 years – such as the Braer (1993), the Estonia (1994) and the Sea Empress (1996) – has given Skuld valuable insight into handling

**“OVER THE YEARS WE’VE LEARNED THAT THE WINDOW OF OPPORTUNITY IS SMALL”**

By **Claes Westman**  
Executive Vice President, Claims, Skuld  
claes.westman@skuld.com



casualties swiftly and effectively.

Over the years we have learned that the window of opportunity is small and fleeting. We have to act fast with a hands-on approach. We also learned that we can respond most swiftly and effectively with the use of fully empowered internal resources – and then call in other resources as necessary.

With the Braer, we started the practice of establishing a local claims handling office near the site in order to be connected to the incident area and be close to the claimants. We have also worked to facilitate mass production of claims. And today's IT solutions have made it possible to move even faster. In addition, we emphasise extensive use of dialogue with those involved – working for settlements and solutions rather than litigation if at all possible.

**CASUALTY RESPONSE ORGANISATION**

Skuld's casualty response organisation provides fast, powerful support. A flexible, dynamic approach makes use of a Casualty Coordinator from the member's syndicate. An initial on-site team will consist of a representative from the Skuld Risk Management & Loss Prevention Department and an internal Skuld maritime lawyer. They will be involved to coordinate the surveying of the casualty and work with external resources – but even more importantly, assisting the member – in handling the incident.

Other members of the Casualty team will include the relevant Member, representatives from ITOPF (International Tanker Owners Pollution Federation) and the IOPC (International Oil Pollution Compensation) Fund. In pollution cases, ITOPF evaluates the overall damage and consults on the

environmental response. The IOPC representative evaluates the level of compensation from the IOPC Fund, and in addition has extensive experience in handling such incidents.

The Casualty Response Team also includes external local lawyers and specialised international legal support if necessary, and all other experts. The team will be complemented by supporting resources from Skuld Head Office or other Syndicates, as well as the Skuld EVP Claims, as necessary.

This organisation allows Skuld to maintain maximum flexibility as well as transferring and capitalising on crucial emergency response expertise within the Club. And this dynamic organisation pays off. Skuld was able to handle two other major cases – Neftegaz 67 and Und Adriyatik – at the same time as we were managing the Hebei Spirit.

The Neftegaz 67, a supply vessel, collided with a bulk carrier off Hong Kong and rapidly sank, trapping a number of crew members. A complex wreck removal operation followed.

**MEDIA RESPONSE**

In cases of this size, media response is just as important as casualty response. It is important to get the story straight, especially under pressure, where the perception of the shipowner's response can affect the value and the very survival of the company. This is another area where Skuld has shown it can give strong support.

**READ MORE**

**www.skuld.com (Publications: Annual Review)**

PHASE 3

**CLAIMS & INCIDENTS**

We help our members improve their operational performance



PHASE 4

**MAJOR INCIDENTS**

We deal with the crucial early stages of a major event and follow through



PHASE 5

**RE-ASSESSMENT**

We add to our case database and refine our risk analysis tools





**By Eric Jacobs**  
EVP Marketing and Communication  
& General Counsel, Skuld  
eric.jacobs@skuld.com

## THE NEW GENERATION P&I CLUB

# NAVIGATING RISK FOR THE NEW GENERATION SHIPOWNER

The current financial crisis is only the latest in a number of risks facing international shipping. It comes on the scene just as a boom in shipping placed pressure on already existing shortages of competent crew, increasing the need for an even greater focus on loss prevention and training. The situation is made even more complex by environmental challenges, as well as energy shortages and ever-more sophisticated national and regional governmental regulatory bodies.

Last year we launched our goal of being the New Generation P&I Club, serving the needs of new generation shipowners. Our main aim is to provide the leadership that will transform tomorrow's marine insurance industry, as our CEO notes in his Viewpoint column in this issue.

And as we note in our most recent Annual Review, published on the Skuld website, our goal is to help the New Generation Shipowner navigate the risks arising out of the wide range of challenges facing them in today's fast changing environment.

### BALANCED APPROACH TO RISK

In earlier times, when evaluating risk, the future was only a mirror of the past. The measurement of future exposure to risk was based on a simple analysis of past risks.

Today, Skuld's approach to managing risk goes much further. It balances decisions based on a qualified and sophisticated analysis of numbers – determined by patterns of the past – with decisions based on more subjective experience-based knowledge about what lies beyond those statistics. In doing so, we help our members and clients to manage risk more effectively. This capacity to manage risk allows them to make bolder decisions and forward-looking choices. In this way, we provide one of the key elements of the energy that will drive the shipping industry forward.

### OUR VISION

Our new vision states that Skuld shall be a world leading maritime insurance provider – through innovation, financial strength and the talents of our people. In short, we will continue to help our members and clients better navigate risk and, in so doing, support them in making informed choices.

**“OUR AIM IS TO PROVIDE THE LEADERSHIP THAT WILL TRANSFORM TOMORROW'S MARINE INSURANCE INDUSTRY”**

### NEW GRAPHIC PROFILE

And you will be seeing more of us. We have now launched a “New Generation” graphic profile to emphasise how we live our values in Skuld.

Those of you who have visited our new website will have noticed the change. And will also have noticed some new services, like the online Bunkers Bulletin for keeping you updated on the daily and weekly developments related to the Bunkers Convention that came into effect in November.

[READ MORE](#)

[www.skuld.com](http://www.skuld.com) (Introduction to Annual Review)

By Lise Larson  
Marketing & Communication, Skuld  
lise.larson@skuld.com



## SKULD SCHOOL VALUE CHAIN PHASE 2

# SERVICE AFTER SIGNING

For three days during the crisp fall weather of early October, over 100 shipping people came together with a common purpose – to expand their knowledge of P&I Insurance. The Skuld team was there.

One of Skuld's main goals is to provide the leadership that will transform tomorrow's marine insurance industry so the support for Skuld School is not surprising.

Our three-day course in P&I insurance help us to share knowledge. At the same time we maintain the closest possible relationship and cooperation with our owner and charterer members.

A P&I Certificate is awarded following completion of the intensive three-day course that covers the rudiments of P&I insurance. The course, which is unique in the P&I industry, is also an excellent introduction to the Skuld organisation.

### EVERYTHING YOU NEED TO KNOW

Skuld School presentations in underwriting include owners' and charterers insurance, entry procedures and statistics, reinsurance and additional covers. On the claims side, the presentations examine

types and handling of claims and then go into more detail on dry cargo liabilities and extra-handling costs, defense insurance, tank and cargo cases.

Sections on casualty response, loss prevention and risk management are essential subjects. And presentations on personal injuries and stowaways provide additional detail. The Skuld School agenda also included a cargo and tank liability workshop for more hands-on experience – and it wouldn't be complete without a look at current cases such as the Hebei Spirit.

The presentations are in good hands – Skuld's own experienced staff members

### RELAXED NETWORKING

"I would like to thank Skuld for organising such an inspiring and educational course," said one of the many participants of this year's sessions."

Course participants also rate highly the many possibilities for industry networking in a relaxed and stimulating environment. The course schedule is a balanced

mix of professional content and informal breaks. This year one of the tours included the recently completed Oslo Opera House.

And here is some additional feedback: "Impressively knowledgeable speakers – everyone performed well. There was a very pleasant tone throughout."

"A very fine seminar! Being new in the industry, I really appreciated this professional overview."

**“CLASS PARTICIPANTS ALSO RATE HIGHLY THE MANY POSSIBILITIES FOR INDUSTRY NETWORKING”**



SKULD SCHOOL: Sightseeing in Oslo was part of the networking opportunity offered by Skuld School. Here on the roof of the new Oslo Opera House we see many of this year's participants.



## ACHILLEAS APPEAL

# LANDMARK DECISION IN THE HOUSE OF LORDS

The decision by the House of Lords followed an original arbitration and subsequent appeals – during which Skuld stood by its member. At issue: Should anticipated redelivery damages for an overrun charter period be based on the market rate or on an estimate of lost profit? The difference in damages in this case would have been over USD 1 million.

In September 2003 our members had a late redelivery dispute, where they quantified the anticipated redelivery damages based on the market rate for the overrun period. The estimated amount owed: USD158,301.

The owners, however, calculated the damages based on the loss of profit on earnings that they would have made for the full duration of their follow on fixture at USD8,000 per day for 192 days. Their estimated amount owed: USD1,364,584.

At the very least, clarity and predictability was needed in the area.

### HOUSE OF LORDS JUDGMENT

Our members finally succeeded in their landmark decision in the House of Lords – in what has proved to be one of the most fascinating cases in recent years. Skuld supported its member's understanding that this was a significant dispute that needed to be clarified at the highest level. The House of Lords in a unanimous decision in July this year upheld the charterers' Appeal. It affirmed that it would be unfair for charterers to assume responsibility for any and all losses suffered by the owners in their subsequent fixtures.

### NO RESPONSIBILITY WITHOUT CONTROL

Lord Hope agreed with the minority arbitrator who had pointed out that a party cannot be expected to assume responsibility for something he cannot control and which he cannot quantify because he knows nothing about it. Lord Hoffman stated: "The purpose of the provision for timely redelivery in the charter party is to enable the ship to be at the full disposal of the owners from the redelivery date. If the charterer's orders will defeat this right the owner may reject them. If the orders are accepted and the last voyage overruns, the owner is entitled to be paid for the overrun at the market rate. All this will be known to both parties."

### LISTENING TO OUR MEMBER'S CONCERNS

Throughout the judgments in the High Court and Court of Appeal a number of questions were raised by the members.

If we redeliver just one day late and the owners miss the sale of the ship, is that foreseeable? If the owners miss a drydock, is that foreseeable? If the owners

**"A PARTY  
CANNOT BE  
EXPECTED  
TO ASSUME  
RESPONSIBILITY FOR  
SOMETHING  
HE CANNOT  
CONTROL"**

miss a ten-year time charter, is that foreseeable? How late do you have to be? Is one hour enough? How can we do a risk assessment on our exposure? We cannot be expected to know what the owners will do with the next fixture.

Prior to the Achilleas, the recognised measure of damages for late redelivery disputes was the market rate for the overrun period. There was a certain stability in dealing with these disputes. The House of Lords has finally returned that stability.

### READ MORE

[www.skuld.com](http://www.skuld.com)  
(Publications: BEACON no. 1–2007, issue 189)

The "Achilleas" (2008) 2 Lloyd's Rep. 275



Our members finally succeeded in their landmark decision in the House of Lords – in what has proved to be one of the most fascinating cases in recent years.

PHOTO: DARREN ROBB/STONE



**By Jonathan Hare**  
Senior Vice President Counsel  
Maritime Law & International Group, Skuld  
jonathan.hare@skuld.com

## A LOOK AT THE IMO CONVENTIONS

# COMPULSORY INSURANCE

The need for Certificates as a consequence of the entry into force of the Bunkers Convention has created an additional workload for P&I Clubs and members. But what are the Certificates for and what are the implications for club exposure?

### INCREASED EXPOSURE

Many members will be aware of the Bunkers Convention for one reason only, namely because they need to add the Bunkers Convention Certificate to the long list of documents which their ships must carry on board. However, looking beyond the paperwork, the entry into force of the Convention marks a fundamental shift in the way in which P&I clubs operate.

The purpose of the Convention is to protect claimants who suffer pollution damage caused by bunker spills. The Certificate confirms that the P&I Club named in it accepts that claimants can sue the club direct and that the club will be responsible for the shipowners' liability for pollution damage.

The club cannot refuse to pay on the ground that the owner is in breach of his terms of cover because, for example, premiums are not paid or the vessel is out of class. The club can only rely on one rarely used policy defence, that of wilful misconduct.

### MORE THAN 30,000 CERTIFICATES

This is nothing new in the sense that this legal regime has applied to oil tankers since 1975. However, the Bunkers Convention is still a significant development. It is the first time that the industry as a

whole outside of the tanker sector has been subject to the compulsory insurance regime of an IMO Convention.

Although tankers are of course a key part of any Club's portfolio, they make up a relatively small proportion of the world fleet. In contrast, the number of ships which will require Bunkers Certificates in the run up to 20 February each year is well in excess of 30,000.

### MORE TO COME

There is also more to come. There are three more IMO Conventions in the pipeline which have the same insurance and certification requirements (see information on right). While the Athens Convention will only apply to passenger ships, it remains of interest to the entire industry in view of the potential reinsurance implications in the event of a major incident. The remaining two will, like the Bunkers Convention, apply to a broad cross-section of ships.

### WHAT ARE CLUBS FOR?

The system imposed by governments through the IMO means that claimants' prospects of recovery are unaffected by the shipowners' conduct or solvency. Clubs are in effect becoming

guarantors. The clubs' liability towards the claimant depends not on the club Rules but on the provisions in the Convention.

This is far removed from the comfortable days of the pay to be paid rule when club existed to reimburse members and remained largely invisible to the outside world. Clubs continue to protect and indemnify their members but they are now also required to fulfil a much broader social function and accept direct responsibility towards members of the public who are affected by marine pollution.

**“THE  
CONVENTION  
MARKS A  
FUNDAMENTAL  
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WAY IN WHICH  
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OPERATE”**

#### IMO CONVENTIONS IN FORCE

##### CIVIL LIABILITY CONVENTION:

Oil pollution from tankers

##### BUNKERS CONVENTION:

Pollution caused by bunkers

#### IMO CONVENTIONS NOT YET IN FORCE

##### HAZARDOUS & NOXIOUS SUBSTANCES (HNS):

Damage caused by dangerous cargoes

##### WRECK:

Wreck removal costs

##### ATHENS CONVENTION:

Passenger injury & death

#### READ MORE

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## BUNKERS CONVENTION

# MEETING THE NOVEMBER DEADLINE

The industry has to live with the Bunkers Convention and find solutions to the challenge which it brings. We have kept you up to date with our new web-based Bunkers Bulletin.

To say the run up to the entry into force of the Bunkers Convention has been hectic would be an understatement. The Certification requirements in the Convention meant that a huge volume of issues needed to be sorted out. Some of these have been obvious to members while others have been dealt with internally within the International Group or by clubs individually.

Problems have ranged from the purely practical to complex questions of international law to tricky insurance conundrums. There have also been serious logistical challenges for clubs, members and States.

### BLUE CARDS

On the practical side, one test was been the number of "blue cards" which our underwriters have had to issue. With good advance planning, our data systems functioned well and we were able to start issuing blue cards in August. We found that we were able to issue documents within a day or so of receiving the necessary information from members or their brokers.

The more serious challenges began once members, armed with their blue card, tried to obtain their certificate. These Certificates could only be issued by the authorities in one of the 26 states which were party to the Convention. This created an immediate problem for the majority of members whose vessels did not fly the flag of a state party.

Eventually, after some anxious weeks, a few states agreed to issue certificates to vessels not flying their flag. More states gradually followed and the panic was off.

### DIFFICULT QUESTIONS

Even with these administrative problems under control, difficult questions still cropped up. States were in the process of setting up their own procedures, but it was essential for clubs that states adopted a common approach, as it would be impossible for clubs to follow widely differing practices for each individual state.

There were also legal questions such as whether tankers needed Bunkers certificates (the answer was yes). There were insurance matters to be sorted out. The liabilities placed on the insurers under the



Convention are in some respects wider than standard P&I cover, for example in relation to war risks, so cover needed to be adjusted to bridge as much as possible the gap between standard P&I cover and exposure under Certificates.

### THE FUTURE

This reflects the far reaching nature of the compulsory insurance regime in the IMO Conventions. Many must be wondering whether all this effort is worth the benefit which it brings to claimants and whether much the same protection could have been provided by a simpler system.

But the reality is that the industry has to live with the Conventions. The clubs have – as usual – found solutions, even though the process has been painful at times, and members have learned to cope with the paperwork.

The signs are that the hectic activity in recent months has avoided a crisis on the 21 November deadline. The next challenge is to make sure that members manage to get new Certificates for the 2009 policy year on board their ships by next 20 February.

**“THIS WAS  
A SUBJECT  
PERFECTLY  
SUITED TO  
MODERN  
METHODS  
OF COMMUNI-  
CATION”**

### SKULD'S WEB-BASED BUNKERS BULLETIN

With developments occurring on an almost daily basis, we realised early on that this was a subject perfectly suited to modern methods of communication. We set up a central source of information on [www.skuld.com](http://www.skuld.com) in the form of the Bunkers Bulletin which was constantly updated. We have received positive feedback to this initiative and definitely intend to further develop our use of web based communication. See [www.skuld.com](http://www.skuld.com)

# / PERSONNEL NEWS

## NEW EMPLOYEES & PROMOTIONS/CHANGES



### SKULD HAMBURG

#### 1 / Simone Vitzthum CLAIMS EXECUTIVE

Simone Vitzthum (32) joined Skuld in June as Claims Executive in our Hamburg office. She is a lawyer from Germany. Simone has a Master of International Maritime Law degree from the IMO International Maritime Law Institute (IMLI) in Malta, and additional experience from sales and purchasing in shipping.



### SKULD HONG KONG

#### 2 / Ho Keng Hoong LAWYER

Ho Keng Hoong (34), introduced in the last issue of Beacon, has transferred from Skuld Singapore to the Skuld Hong Kong team.



#### 3 / Christian Ott ASSISTANT VICE PRESIDENT WITH SKULD HONG KONG

Christian Ott (32) has accepted the position of Assistant Vice President with Skuld Hong Kong as of October, when he rejoined the company following a year working for Clyde & Co Hong Kong.



### SKULD OSLO

#### 4 / Stefan Gattberg TRAINEE

Stefan Gattberg (27), joined Skuld in August as trainee through the Norwegian Ship-owners' Association's Maritime Trainee programme. Stefan is a lawyer who will be involved in a wide range of work areas, mainly in underwriting and claims.

#### 5 / Marita Mo CREDIT CONTROLLER

Marita Mo (47), started work as Credit Controller in the Credit Control Department in August. Marita comes from an accounting position in DSV Roads AS and has extensive professional experience.

#### 6 / Ingeborg S. Berge VICE PRESIDENT MARKETING & COMMUNICATION

Ingeborg S. Berge (50), has been appointed Vice President Marketing & Communication. She joined Skuld in 1997 and became Manager Marketing & Communication in 2002. Ingeborg has Master studies from BI Norwegian School of Management and a Bachelor of Arts from the University of Oslo.

#### 7 / Christof Kobro

#### 8 / Marcus Lindfors CLIENT SERVICING AND MARKETING EXECUTIVES

Christof Kobro (33) and Marcus Lindfors (32) have been transferred to the Offshore Syndicate as Client Servicing and Marketing Executives. Christof has been a claims executive since 2005. He has two year's officer training in the Navy and seafaring experience, and received a law degree from the University of Oslo, including maritime law studies from the University of Southampton. Marcus has also been a claims executive since 2004. He has a law degree from Lund University, maritime law from the University of Oslo and an LLM Master of Law from the University of Southampton.

### SKULD SINGAPORE

#### 9 / Alvin Looi LAWYER

Alvin Looi (33), joined our Singapore office as an in-house lawyer in September to handle both P&I and FDD claims. He served as a shipping and litigation partner at Rajah & Tann, LLP, which has the largest maritime law practice in Singapore. Alvin has a law degree from the National University of Singapore.

/ TOTAL NUMBER  
OF EMPLOYEES  
IN SKULD:

160

## SOME CURRENT CASES FROM OUR SYNDICATES, NEWS FROM OUR CORRESPONDENTS AND OTHER CONTACTS

### / EARLY REDELIVERIES UNDER CHARTER PARTIES

Skuld assisted and advised Members on how to protect themselves and secure claims arising from sudden large scale early redeliveries.

### / WATER FROZEN REEFER CARGO

Defrost water was spilled into the hold, causing frozen krill to be water frozen and partly demolished before arrival at Vladivostok. Local surveyor appointed to inspect the holds. Preparing for the handling of resulting claims.

### / SHORT DELIVERY IN PAKISTAN

Under Pakistani law, agents are directly liable to cargo receivers for any short delivery. A vessel was detained by local ship agents demanding security. To get the vessel released before an arrest, Skuld Singapore provided security and started preparations to defend the claims in Pakistani courts.

### / STOWAWAYS REPATRIATED

Three stowaways were picked up at Matadi, Democratic Republic of Congo. Skuld co-ordinated the prompt disembarkation and repatriation in Senegal, resulting in minimal delay to the vessel and a controlled cost for the incident.

## FACTS

The five dominant vessel categories in Skuld today in percentages based on the number of vessels entered:

33%  
GENERAL CARGO  
20%  
TANK  
19%  
BULK  
15%  
CONTAINER CARRIER  
13%  
CHEMICAL TANKER



SOURCE: SKULD UNDERWRITING

### / TRANSFER OF SEAMAN FOR SURGERY

A Russian crew member on board a German vessel had an examination done at a Puerto Rican hospital and a serious diagnosis stated. Skuld Moscow was involved in the transfer of the seaman back to Russia for surgery.

### / GERMAN CREW MEMBER HOSPITALISED IN NEW YORK

Skuld Oslo cooperated with Skuld North America, followed up closely to support the crew member and shipowner along with taking measures to monitor and contain medical costs.

### / COLLISION IN HORMUZ STRAIT

A member's tanker vessel collided with a container ship resulting in minor personal injuries and big damages to the vessels. However, both vessels could still sail and no oil pollution occurred. Repair work will be carried out, securities exchanged and the work dividing liability between the two vessels is commencing.

## PIRACY

### / GULF OF ADEN

At present, 11 vessels and some 300 crew members are held hostage by Somali pirates. Since the beginning of this year about 48 vessels have been attacked by pirates and 18 hijacked during their passage of the Gulf of Aden. See more details in the Skuld Web only Circular – Piracy Section.

[READ MORE www.skuld.com](http://www.skuld.com)

## HOUSE OF LORDS

### / ACHILLEAS DECISION

This summer's decision by the House of Lords in the Achilleas case followed an original arbitration (2005) and an appeal (2007) – during which Skuld stood by its member. The unanimous decision upheld the Charterers Appeal.

[READ MORE Beacon, page 14](#)



PHOTO: PANORAMIC IMAGES

## SHIPPING AND THE ENVIRONMENT

The second edition of *Shipping and the Environment: Law and Practice* will be published early next year as part of the prestigious Lloyd's Shipping Law Library. The book combines the legal expertise and practical experience of two leading specialists – Charles Anderson, head of Skuld's New York office, and Colin de la Rue, partner in the law firm of Ince & Co. in London.

### LIABILITY

The second edition examines liability for pollution from ships, both under international conventions and the US Oil Pollution Act of 1990, as well as pollution prevention and response. Special attention is paid to problems most commonly encountered in practice, and to the many ways in which these can affect various parties engaged in maritime commerce. A series of chapters deal with the position of salvors, charterers and cargo owners, vessel managers and operators, and ship financiers. Insurance aspects are discussed which affect P&I Clubs and hull underwriters.

### SUBSTANTIALLY REVISED

It covers many developments since the first was published ten years ago. Several chapters have been substantially revised, and others have been added to deal specifically with pollution from offshore craft, owners of colliding ships, pilots and maritime authorities, limitation of liability for pollution, removal of wrecks and dumping at sea, as well as shipment of waste and dismantling of vessels. Enlarged chapters on regulatory aspects now include ballast water management and air pollution regulations, together with a more detailed review of law enforcement and criminal liability.

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SKULD  
MAGAZINE

BEACON

NEXT ISSUE

OUT MARCH 2009

# FINANCIAL CRISIS

The financial crisis is still unravelling. Initial actions are being initiated by responsible states. As a consequence, the financial sectors could be trimmed down with a greater focus being placed on business regulation as the world moves forward. In our March issue we will be examining the effects on shipping and the P&I industry.

## ABOUT SKULD

As the New Generation P&I Club, **SKULD** provides liability insurance to New Generation shipowners and clients in the shipping industry. The head office for our global operations is located in Oslo, with additional offices in Bergen, Copenhagen, Hamburg, Hong Kong, Moscow, New York, Piraeus and Singapore.

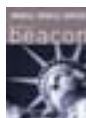
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 **SKULD**

RUSELØKKVEIEN 26  
NO-0251 OSLO  
P.O. BOX 1376 VIKA  
NO-0114 OSLO  
NORWAY

TEL +47 22 00 22 00  
FAX +47 22 42 42 22

[SKULD.COM](http://SKULD.COM)