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Navigating the Foundations of Marine Insurance: A Comprehensive Review of Standard Hull & Machinery (H&M) Clauses

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Abstract

Marine insurance remains the bedrock of international trade, providing essential security for global maritime operations. In the Hong Kong Special Administrative Region, a premier international maritime centre within the Greater Bay Area operating under a common law system, Hull and Machinery (H&M) insurance is vital for protecting capital-intensive shipping assets. However, the inherent complexity of standard H&M clauses often presents a formidable barrier for operational staff, claims trainees, and junior underwriters. This paper provides a comprehensive review of these foundational marine insurance frameworks, aiming to bridge the gap between dense legal policy language and practical on-the-ground claims handling. It begins by contrasting the two dominant global regimes: the English market's traditional "Named Perils" approach (ITC-Hulls) and the Nordic Marine Insurance Plan's (NMIP) "All-Risks" model, emphasising how these jurisdictional differences fundamentally shift the burden of proof. The core of the study deconstructs critical standard clauses—namely the Perils and Inchmaree Clauses, the 3/4ths Collision Liability (Running Down Clause), General Average, and the Duty of the Assured (Sue and Labour). By contextualising these clauses within Hong Kong's high-density maritime environment, the paper provides actionable insights into procedural requirements, including Notice of Claim, the indispensable roles of marine surveyors and average adjusters, and the financial mechanics of deductibles. Furthermore, the analysis explores how legacy wordings are adapting to contemporary industry disruptions, specifically the proliferation of cyber risks and the introduction of cyber exclusions (e.g., JL2010/046), as well as the impact of decarbonisation, alternative fuels, and ESG compliance on the implied warranty of seaworthiness. Ultimately, this review equips maritime professionals and trainees with the critical analytical skills required to navigate complex claims, mitigate risks, and adapt to the evolving technological and environmental realities of the modern shipping industry.

Keywords: *Marine Insurance, H&M Clauses, ITC-Hulls, Nordic Marine Insurance Plan, Inchmaree Clause.*

1. Introduction

Marine insurance is the lifeblood of international trade; it provides the security that propels global commerce to the far corners of the world. Hull and Machinery (H&M) insurance, as one of the fundamental pillars of marine risk management, covers physical loss or damage to the ship itself: that is, the hull and the machinery – including propulsion machinery and other equipment. As an international maritime centre of repute, the Hong Kong Special Administrative Region (HKSAR) of the People's Republic of China is strategically located within the Greater Bay Area (GBA), has a common law legal system, and hosts a significant cluster of ship management companies (Hong Kong Maritime and Port Board, 2023). Hong Kong is naturally a major nexus of shipping operations and marine underwriting. Ship security is, of course, a necessity in such a fast-paced, capital-intensive business, and H&M insurance has always been the go-to risk transfer solution for shipowners and operators to keep their assets protected and stay afloat.

However, an old problem remains with the H&M insurance form in practice: the complexity of the standard clauses. The standard clauses – e.g., the widely used Institute Time Clauses – Hulls (ITC-Hulls) and the Nordic Marine Insurance Plan – are, of course, thoroughly tested by decades of legal precedent (Hudson et al., 2012). They are also time-tested and are likely to include archaic terminologies and provisions that are heavy with complex risk allocation under certain situations: for example, clauses that are quite onerous on the assured, with certain provisos and exceptions. These clauses range from the description of perils, warranties of seaworthiness, and the duty of the assured, to name but a few (Rose, 2012). This paper addresses the primary challenge posed by the complex standard clauses inherent in H&M insurance contracts. For operational staff—such as claims trainees, junior underwriters, and ship managers—who process claims daily, deciphering dense policy wording is an arduous yet essential prerequisite for assessing coverage (Soyer, 2014). A superficial understanding of these terms risks overlooking critical nuances, delaying claims processing, and misjudging the extent of coverage, ultimately leading to costly commercial litigation. As such, it is necessary to study these standard clauses and gain a better understanding of H&M's insurance to connect with on-the-ground operations (Derrington & Turner, 2016; Gürses, 2023).

2. Historical Context & Evolution of H&M Clauses

Traditionally, hull insurance policies were subject to English Law. The London market has underwritten hull and machinery risks for more than 200 years, using what was essentially the Lloyd's Ship & Goods (S&G) policy adopted in 1779 (Hong Kong e-Legislation, 1961). However, as modern vessels evolved, equipped with sophisticated technology and cargo operations, the cumbersome, old-fashioned language of the SG policy and its practice of a single, all-in consolidated cover for both hull and cargo risks increasingly showed its limitations. Amid much international criticism, particularly following the publication in the late 1970s of a scathing report by the United Nations Conference on Trade and Development (UNCTAD), the London market embarked on a root-and-branch modernisation (UNCTAD, 1978). As a result, the hull policy was rewritten as Institute Time Clauses – Hulls (ITC-Hulls) in 1983 when hull and cargo coverages were finally split. In addition, the old-fashioned practice of open cover giving implied warranties was abandoned in favour of a much more structured, modern, named-perils basis (Hudson et al., 2012).

The ITC-Hulls 1983 form quickly set the new global standard, which was again tightened up in 1995 with a more onerous regime including much stricter classification and up-to-date compliance with the International Safety Management (ISM) Code. To address the continued need to update the wording to reflect modern commercial realities, the International Hull Clauses (IHC) were launched in 2003 (Rose, 2012).

The IHC 2003 has not displaced the widespread use of ITC-Hulls 1983 and 1995 as the most commonly used hull insurance wordings worldwide, and this is certainly true in Hong Kong. Hong Kong is not only an international maritime centre operating under the common law system, but also its marine insurance market is heavily rooted in English insurance law. In particular, the Marine Insurance Ordinance (Cap. 329) is closely modelled after the UK Marine Insurance Act 1906. Therefore, Hong Kong shipowners, ship managers and underwriters have continued to use the ITC-Hulls wordings as the market norm. It is therefore not only of historical interest to local marine trainees and operators, but also essential for a full understanding of the policy terms still used for many vessels in the Hong Kong fleet today (Hudson et al., 2012).

3. Comparative Frameworks: English Market vs. The Nordic Plan

There are two “bibles” or sets of marine insurance clauses which the international Hull and Machinery (H&M) insurance market quotes on. They are the English market clauses (generally the ITC-Hulls) and the Nordic Marine Insurance Plan (NMIP). An international shipping centre like Hong Kong has ship managers, brokers, and hull underwriters who deal with ships trading all over the world and with policies issued in different markets and with different wording. A knowledge of the differences in the various wordings is thus a basic requirement.

The English market is underwritten on a named perils basis, and the ITC-Hulls cover losses only for the perils specifically stated in the wording. These perils include: the perils of the seas, fire, explosion, piracy and so on. It is important to note that in the English market, the onus or burden of proof is on the assured (shipowner). The assured must prove that the proximate cause of the loss or damage was one of the named perils. Hong Kong is a common law jurisdiction and, until recently, followed the UK Marine Insurance Act 1906. Thus, the English named-perils approach and burden of proof are the starting point for any claims handler or lawyer in Hong Kong (Falkanger et al., 2017).

The Nordic Marine Insurance Plan takes the opposite approach to underwriting. The NMIP is an all-risks insurance policy. The ship is covered for all perils which may cause a loss or damage unless the peril is specifically excluded in the wording (insolvency or the specific war risks, for example, are not insured at all, but have to be insured separately) (Zhang & Zheng, 2023; Davey et al., 2020). The incident leads to a completely different approach to the claims investigation and burden of proof. In the Nordic Plan, the insured only has to prove that a loss occurred during the policy period. If the assured proves this, the insurer has the burden of proving that an excluded peril caused the loss if they wish to deny the claim (Nordic Association of Marine Insurers (Cefor), 2023). The NMIP is also highly regarded for the detailed, up-to-date commentary it produces and the very limited room for argument it affords. To ease comprehension, a comparative table is presented in Table 3.1.

Feature	English Market (ITC-Hulls)	Nordic Marine Insurance Plan (NMIP)
Core Approach	"Named Perils"	"All-Risks"
Scope of Coverage	Limited strictly to specific perils explicitly enumerated in the policy (e.g., perils of the seas, fire, piracy).	Covers all perils that may cause loss or damage, unless a peril is expressly excluded in the wording.

Burden of Proof	Rests on the assured (shipowner), who must prove the proximate cause of the loss was a named peril.	Rests on the insurer, who must prove an excluded peril caused the loss to deny the claim.
Legal Framework	Common Law (Rooted in the UK Marine Insurance Act 1906).	Civil Law (Rooted in Scandinavian maritime law).
Interpretation & Guidance	Relies heavily on historical case law, legal precedents, and legacy terminology.	Accompanied by a comprehensive, regularly updated official Commentary that reduces ambiguity.
Hong Kong Context	The local market's foundational bedrock is closely aligned with the HK Marine Insurance Ordinance (Cap. 329).	Increasingly relevant for HK ship managers and brokers overseeing diverse global fleets insured by international syndicates.

Table 3.1: Comparison of the English Market (ITC-Hulls) and the Nordic Marine Insurance Plan (NMIP)

Trainees, junior underwriters, and even ship managers operating in Hong Kong should be aware of these basic jurisdictional differences. It is not uncommon for a ship manager in Hong Kong to have a fleet insured under ITC-Hulls with syndicates in London or Hong Kong. In contrast, another part is insured under the Nordic Plan with Scandinavian or Asian syndicates (Rose, 2012). To be operating in Hong Kong, and not to be aware whether a policy is underwritten on a "Named Perils" or "All-Risks" basis, is a recipe for getting the assessment of a claim wrong, for giving wrong advice to a shipowner, and then for a protracted legal argument, as well as an unsatisfied claim. In particular, it will dictate how to investigate an incident, what evidence to collect, and how to prepare a claim (Soyer, 2014).

4. Key Standard Clauses

The following table (Table 4.1) deconstructs the most critical clauses within the Institute Time Clauses - Hulls (ITC-Hulls), providing a practical framework for operational staff who encounter these terms in their daily claims handling and underwriting duties.

Clause	Details
The Perils Clause & Inchmaree Clause	Clause 6 of ITC-Hulls is known as the Perils Clause, the core of the H&M policy that lists all the perils covered under the English-named-perils form. The list of perils (fire, explosion, piracy, and "perils of the seas", for example) is the most basic marine risk that vessels would have historically encountered during the voyage. For Hong Kong and the Greater Bay Area, "perils of the seas" often include severe weather damage, with Category 5 super typhoons regularly affecting the South China Sea in recent decades. However, with the expansion of modern shipping into technical and heavy-weather-exposed trades, there is a high risk of other perils, including machinery breakdown and human error, which is why the Inchmaree Clause is inserted as Clause 6.2. The Inchmaree Clause was named after a famous UK case in 1887 and greatly extends coverage to include loss or damage arising from latent defects in machinery or hulls, the bursting of boilers, and the negligence of the Master, Officers, Crew, or Pilots. In a port with some of the highest vessel density and traffic in the world (such as the Port of Hong Kong), with its narrow fairways requiring skilled pilots for frequent, high-value ships that require very short port turns, the risk of an error or oversight by a pilot or crew member is an operational reality (Rose, 2018; Schoenbaum, 2018). Claims trainees must note that the Inchmaree Clause has a standard "due diligence" proviso, which means that the Inchmaree Clause only applies if the loss did not result from "want of due diligence by the Assured, Owners or Managers." Claims handlers in Hong Kong often have to distinguish between a culpable act by the crew (recoverable under the Inchmaree Clause) and an act that falls short of a management failure (no due diligence) (Comité Maritime International (CMI), 2016).

3/4ths Collision Liability (Running Down Clause)	Clause 8 of ITC-Hulls is the traditional Running Down Clause (RDC), which covers the assured's liability for loss or damage caused to another vessel in a collision. Under a standard H&M policy in the English market, the RDC indemnifies the shipowner for three-fourths (3/4ths) of the liability incurred, up to 3/4ths of the insured value of the vessel (Todd, 2010). The balance one-fourth (1/4th) is retained by the shipowner and, together with liabilities for personal injury, wreck removal, and pollution, is typically placed with the shipowner's P&I club. The rationale behind this historic apportionment was to make shipowners retain "skin in the game" for navigation. Collision is a risk in the busy, congested waters of Hong Kong's Victoria Harbour and the adjacent fairways in the Pearl River Delta, where ocean-going vessels, river trade vessels, and local ferries often intersect each other's routes. When a collision occurs in this heavy traffic, operational staff would need to quickly work out the complex interplay between H&M and P&I covers (Hong Kong e-Legislation, 1961). Claims trainees should note that the RDC only responds to tortious liability, meaning actual physical contact between two vessels. The RDC does not cover damage caused by the wash of another vessel (wash damage). Nor are allisions with fixed and floating objects (FFO), such as the Kwai Tsing container terminals in Hong Kong, which are typically 100% P&I, unless the H&M form has been specifically amended to cover such objects (Mukherjee et al., 2020; Mukherjee & Brownrigg, 2013).
General Average & Salvage	General Average (GA) is a principle in maritime law that all the interests in a sea adventure (ship, cargo, and freight) proportionally share the loss arising from a voluntary sacrifice or extraordinary expenditure made to save the whole venture from a common peril. Clause 11 of ITC-Hulls is a standard cover affirmation clause which states that the H&M policy will cover the vessel's proportion of GA and salvage charges (Jia & Zhao, 2022; Zhu, 2020). For example, if the vessel's main engine fails while sailing through a typhoon in the South China Sea close to Hong Kong and she requires emergency tug assistance from local salvors to prevent stranding, the cost of towage is a GA expenditure, for which the H&M insurer would indemnify the shipowner for the hull's contributory value. Operational staff need to be on the lookout for GA situations and liaise with Average Adjusters (many of whom have regional headquarters in Hong Kong) to promptly declare GA, secure cargo interests for GA security, and appoint surveyors. Trainees need to understand the relationship between the H&M policy and the York-Antwerp Rules, which are the international standard rules for GA contributions and/or prompt reimbursement of salvage and sacrifice costs (Hudson et al., 2012).
Sue & Labour (Duty of the Assured)	Section 78 of the UK Marine Insurance Act 1906, which is reproduced in the Hong Kong Marine Insurance Ordinance (Cap. 329), requires the assured to take reasonable measures to prevent or minimise a loss which would be recoverable under the policy. The requirement is known as the "Duty of the Assured (Sue and Labour)" clause in ITC-Hulls (Clause 13). The clause is a warranty that imposes a duty on the shipowner and a promise by the insurer to reimburse the shipowner for reasonable expenses (even if incurred in vain and the ship is a total loss, and even if the expenses exceed the insured value) incurred in performing the duty. The effect of the clause is to make ship managers in Hong Kong, for example, respond promptly and reasonably in the event of a casualty to minimise the loss to the vessel (deploying firefighting tugs to a ship on fire, for example), without having to obtain the insurer's prior approval for such action, and treat the ship as uninsured. Claims trainees need to scrutinise these "sue and labour carefully" claims to ensure that the expenses were reasonably incurred for the sole purpose of preventing a peril covered by the policy, and not simply part of the ordinary or GA expenses (Sze, 1999; Cullinane, 2012).

Table 4.1: Summary of the Most Critical Clauses under ITC-Hulls

5. Practical Application & Claims Handling

On the practical side, the real test for claims trainees to show their understanding of the H&M insurance is to apply the policy clauses and handle a settled claim with guidance from the team leads. A casualty becomes a claim and is finally settled only after rigid adherence to the procedure and the involvement of several specialists in the maritime industry.

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5.1. Notice of Claim & Tenders

Key to a successful H&M claim is compliance with the notice of claim and tender's clause (Clause 10 of the ITC-Hulls). After an accident, the assured has to immediately give notice to the underwriters before the survey takes place. The procedure allows the underwriters to appoint a surveyor of their choice. In addition, the underwriters have unfettered discretion to direct the vessel to a port for docking or repairs and may even veto a named repair yard or require tenders to be taken. For example, a local ship manager in Hong Kong, when faced with a casualty of one of his managed ships in the South China Sea, will have to resist the temptation to have it immediately towed to Yiu Lian Dockyards in Tsing Yi or one of the several shipyards along the Pearl River Delta for quick repairs without the insurers' prior agreement. The trainees need to note that any non-compliance with the tender requirements is likely to incur the wrath of the underwriters and result in a 15% reduction in the final claim amount.

5.2. The Role of the Marine Surveyor & Claims Adjuster

The marine surveyor is the physical representative of the underwriter. The trainee needs to realise that the surveyor is the "eyes and ears" of the underwriter. The surveyor is there for technical and factual reasons. He has to satisfy himself of the cause, nature and extent of the damage and only agree on fair and reasonable costs of the repairs with the yard. The surveyor does not decide whether the policy is liable; that is the claims adjuster's job. Hong Kong is a key regional hub for several well-known international average-adjusting firms. The adjusting firm will painstakingly marry up the fine details of the surveyor's technical report with the relevant H&M policy conditions. It is not uncommon for a claims trainee to have a good read of a claims adjuster's statement to see how he carefully applies the policy conditions and apportions the specific repair invoices to the particular casualty, distinct from the owner's general maintenance or non-covered losses (Dunt, 2015).

5.3. Deductibles, Franchise & Unrepaired Damage

It is often the financial limit thresholds that determine whether a claim is worth submitting on a commercial basis. Newer policies use the term "Deductible" (Clause 12) to mean that the insurer only indemnifies the assured for repair costs in excess of a pre-agreed amount for each separate accident or occurrence. The trainees should be wary of confusing terms like "Franchise," which is no longer used and appears in some older reference books. If ever used, the insurer would pay the entire claim once it passes a certain minimum amount (Goodacre, 1996).

There are occasions where a shipowner may decide not to repair the damage before the policy renewal if it is not critical. In this regard, under Clause 18 (Unrepaired Damage), the assured may recover from the insurers the reasonable depreciation in the market value of the Vessel caused by the unrepaired damage, but not exceeding the reasonable cost of repairs (Baughen, 2023). The operation has to be carefully assessed in Hong Kong, a very active S&P market, by the claim's handler with the necessary commercial common sense to see that the owner is made good for the loss in the value of his asset without making a profit out of the casualty (Hazelwood & Semark, 2010).

6. Contemporary Challenges & Emerging Risks

As the maritime industry undergoes rapid technological and environmental transformations, traditional Hull and Machinery (H&M) clauses face unprecedented stress tests. For operational staff and trainees, understanding how legacy wordings adapt to these modern perils is critical.

A primary concern is the proliferation of cyber risks. Modern vessels are highly digitised, relying on integrated navigation and engine-management systems. To address this, the London market introduced stringent cyber exclusions, most notably the Institute Cyber Attack Exclusion Clause (CL380) and related endorsements, such as L2010/046 (Mandaraka-Sheppard, 2013; Merkin et al., 2014). These clauses categorically exclude damage caused by malicious cyber acts. In a highly automated logistics hub like the Port of Hong Kong, where vessels continuously interface with smart terminal networks and digital port infrastructure, a cyber-induced navigation failure poses a massive uninsured exposure. Consequently, shipowners are increasingly forced to seek specialised marine cyber "buy-back" covers to bridge this gap (Hodges, 1996; Bennett, 2006).

Simultaneously, the industry's drive towards decarbonisation and Environmental, Social, and Governance (ESG) compliance is reshaping the legal concept of seaworthiness. To meet stringent International Maritime Organisation (IMO) emission targets, vessels are rapidly adopting alternative fuels such as LNG, methanol, and ammonia. However, these novel technologies introduce untested machinery risks and require specialised crew competencies (Thomas, 2023). Under the Hong Kong Marine Insurance Ordinance (Cap. 329), there is an implied warranty that a vessel must be seaworthy at the commencement of a voyage. If a casualty occurs because a crew was inadequately trained to handle a complex new alternative-fuel engine, insurers could theoretically argue a breach of the seaworthiness warranty, thereby discharging their liability. For Hong Kong ship managers leading the charge in green shipping, ensuring rigorous crew training and strict compliance with evolving ESG regulatory frameworks is no longer just an operational goal—it is a fundamental prerequisite for maintaining valid H&M insurance coverage (Kwan, 2015; Li, 2007).

7. Conclusion

In conclusion, mastering the intricacies of H&M insurance clauses is not merely an academic exercise; it is a critical operational imperative for maritime professionals. As this comprehensive review has demonstrated, understanding the foundational differences between the English market's "Named Perils" framework (ITC-Hulls) and the Nordic Plan's "All-Risks" approach is essential. These jurisdictional distinctions dictate the entire trajectory of a marine claim, fundamentally altering the burden of proof, incident investigation, and settlement strategies. For claims trainees, junior underwriters, and ship managers operating within Hong Kong's dynamic maritime hub, a profound comprehension of core provisions—such as the Inchmaree Clause, the 3/4ths Collision Liability, General Average, and Sue and Labour duties—is indispensable for delivering accurate assessments and avoiding costly legal disputes.

Furthermore, the paper highlights that translating theoretical policy wordings into practical application requires rigorous adherence to procedural protocols, particularly regarding tender requirements and the collaborative expertise of marine surveyors and average adjusters. Crucially, the marine insurance landscape is not static. The rapid digitalisation of the global fleet and the maritime industry's aggressive push towards decarbonisation have introduced unprecedented operational exposures. Traditional legal concepts, such as the implied warranty of seaworthiness, are being rigorously tested by the adoption of alternative fuels and stringent ESG mandates. At the same time, the rise of malicious cyber acts necessitates complex new exclusions and "buy-back" covers.

As Hong Kong continues to strengthen its position as a premier international maritime centre within the Greater Bay Area, its insurance professionals must remain agile. By bridging historical legal precedents with emerging technological realities, this paper provides the next generation of maritime talent with the robust technical foundation required to navigate the complexities of modern shipping, adapt to new risk profiles, and safeguard the future of global commerce.

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