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BIMCO - Waypoints Issue 03

BIMCO's General Counsel Christian Hoppe reports on how the shipping industry's largest membership-based NGO enjoys a key symbiotic relationship with the P&I clubs.

Christian Hope
(General Counsel, BIMCO)

BIMCO, formerly known as Baltic and International Maritime Council, was originally set up in 1905 to establish an agreement of timber freight rates between Copenhagen shipowners. Now the organisation's core activity is the development of standard documentation for the shipping industry and it strives to be at the forefront of relevant global developments by continuously developing contractual solutions that meet the industry's needs.

BIMCO's contracts and clauses are made available to the shipping industry as a whole, regardless of membership so it's of critical importance that they are of far-reaching relevance, widely taken up and do not conflict with insurance related considerations. With this in mind, of the hundreds of contracts that BIMCO has developed over the years, most of them have been reached with the very close involvement of the P&I clubs. The only exceptions are the financing or sales and purchase agreements.



The clubs' involvement can be on a top down level, with the International Group of P&I Clubs (IGP&I) involved very closely in BIMCO's Documentary Committee. Francis Sarre of CMB, who was formerly Chairman of the Documentary Committee is current Chairman of West P&I. But also, whenever we put together any new standard we assemble a small drafting team with experts and stakeholders from various areas of the shipping industry, from shipowners to bankers and lawyers, and this very often includes representatives from the P&I clubs, with regular representation from West.

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Once a new project is drafted and considered sufficiently mature it is put forward to our Documentary Committee for adoption. The DC meets at least twice a year to consider contracts and clauses for adoption, review progress on ongoing projects and decide the work programme. At any given time, more than 10 DC subcommittees are working on new contracts and clauses or revision of existing ones. The P&I Clubs have a very important role to play as the guardian of BIMCO contracts and clauses when it comes to their insurability. The Clubs are therefore systematically involved in all contracts and clauses related projects to ensure that whatever is set out in the terms and conditions does not jeopardise insurance cover. This is essential for the effective carriage of goods at sea.

But on a less dramatic level, the P&I clubs also have a great deal of involvement on the wording of our documents. It is important that for our documents to be considered 'industry standard' and widely adopted, we stay true to our guiding '3 Cs' principles: Clarity, Consistency and Certainty. Clarity – by ensuring that the contract or clause is well drafted, logically structured and worded in a modern language; Consistency – by ensuring that the different clauses and/or subclauses work together and that the style of drafting is uniform; and Certainty – by promoting predictability and making sure that commercial risks are insurable.



It is equally important to have balanced and clearly worded contracts and clauses that are market and business cycle neutral – principles that have been part of BIMCO's strategy for decades and guide the Documentary Committee and various drafting subcommittees in their work. Otherwise they would simply not be so widely recognised by the industry.

While BIMCO benefits from our contracts and clauses being widely recognised, the P&I clubs have a vested interest in the wording of any new documentation, because, by way of example, if a clause was to be drafted in such as way that it caused a dispute somewhere down the line, it would be likely that a P&I club would ultimately end up closely involved in that dispute. Outside of the contracts and clauses aspects of our work BIMCO shares with the P&I clubs a remit to widely disseminate information to the industry from security and piracy updates to data on fuel quality and sanction activities.

As the clubs and BIMCO share members spread throughout the world's oceans we freely exchange such information as widely as we can and all call upon extensive networks and technologies to help us do so.

BIMCO

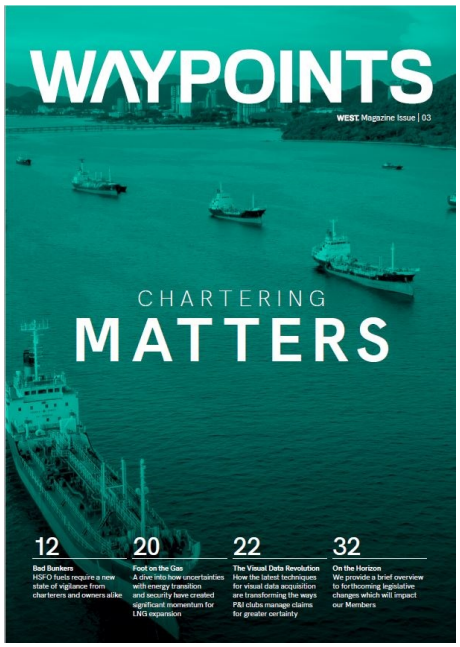
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Christian Hoppe is BIMCO's General Counsel. He is a lawyer and graduated from the University of Copenhagen with a Master's degree in 2001 and an LL.M. with Distinction from the University of Southampton in 2004. He was admitted to the Danish bar in 2019 (practicing certificate deposited). Christian has been with BIMCO for 13 years, providing legal and policy advice in-house and to members, representing the association at various international meetings and managing a number of the contracts and clauses related projects.



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