

integrated

Bringing clarity to complex insurance claims

Issue Five 2018

PRODUCT LIABILITY AND RECALL


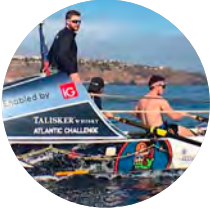


MINING INSURANCE REVIEW

CONTINGENT BUSINESS INTERRUPTION

RESOLVING CLAIMS FOR PV MODULES



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Having a named set of experts who can share their experience of managing supply chain losses can improve pre-loss planning, helping firms assess the adequacy of their insurance and set their CBI claims management expectations

PAGE 10

We would like to thank Martin Clark (Zurich), Matthew Frost (BHP), Luke Griggs (Swiss Re), Mark Lewis (C. Lewis and Company), Rob Powell (Marsh) and Paul Pryor (Aon) for their invaluable contribution to this issue of **integrated**

This publication is for the benefit of Insurers, Insurance Brokers, Insureds and other stakeholders involved in the services that are provided by Integra Technical Services Limited. It is not legal advice and is intended only to highlight general issues relating to its subject matter but does not necessarily deal with every aspect of the topic. © December 2018

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Welcome to the Issue Five of **integrated**, our magazine devoted to the specialty insurance lines marketplace and sharing knowledge, experience and insight to improve claims management. We hope you enjoy reading this issue and, as always, would welcome your feedback and ideas for future articles.

The celebration of our 20 year anniversary now seems a distant memory, as we turn our attention to building Integra Technical Services for the next 20 years. The expansion of our Loss Adjusting team will be clearly apparent to our external stakeholders with seven new members being added to the Australian, Middle East, Singapore and EMEA teams since September (page 5). Behind the scenes but equally as important to the expansion of the business is the Operations team, and in the final quarter of 2018 Elias joined us as our full-time Credit Controller.

As we look ahead to 2019, we already have new Loss Adjusters committed to joining our team in the UK and Middle East, as well as a new Head of Operations into the team. None of this expansion would be possible without the project and panel nominations and, following that, claim instructions we receive from our Risk Manager, Broker and (Re)Insurer clients. I take this opportunity to thank you for your continued support of the Integra Technical Services team.

This issue is full of pertinent thought-provoking topics, none more so than the Mining Article on page 8 which in amongst the discussion between the Underwriter, Broker and Loss Adjuster, references 'Parametric Insurance'.

Much has been written on this topic in the personal lines space, but now we are seeing

parametric products that interact with specialty risks. What is interesting to read is that the relationship between the two can be more complementary, than competitive, than one might at first think. At least until the Parametric Insurance policy limits move beyond the levels they are at today, when the dynamic between the two will likely shift.

The article on Contingent Business Interruption (page 10) is certainly a timely one as we (and we expect many of you) experience a rise in the number of Contingent Business Interruption claims we're handling. In this complex world in which companies and countries trade, we are seeing business's supply chain vulnerability increasingly exposed to events outside their control. While some Insureds are beholden to the suppliers or customers affected by a loss, others respond in extremely innovative and effective ways to mitigate there, and therefore their (Re)Insurers, exposure to such incidents. This clearly demonstrates to us the difference between those businesses who have robust Business Continuity Plans, which have undoubtedly been through numerous 'internal dry runs' and evolved, compared to those who don't.

We hope you enjoy this issue and the team at Integra Technical Services wishes you a successful and prosperous 2019.



Leo Dixon BSc (Hons)

Chief Executive Officer

Integra Technical Services Limited

RIDING THE WAVES



Only a few daring individuals have completed an Atlantic crossing in a rowing boat, in fact more people have climbed Everest. Yet this is what five enthusiastic and highly motivated young men, the Nauti Buoys, are attempting by competing in the Talisker Atlantic Challenge and why Integra Technical Services decided to sponsor them. A 3,000 mile race from La Gomera to Antigua which started on 12 December 2018 and will hopefully end by 16 January 2019 if they are to succeed in beating the current record.

Preparations for the race went well and the team were especially hoping that the storms that have recently

lashed Tenerife will have died away so that they can experience an uneventful crossing weather wise!

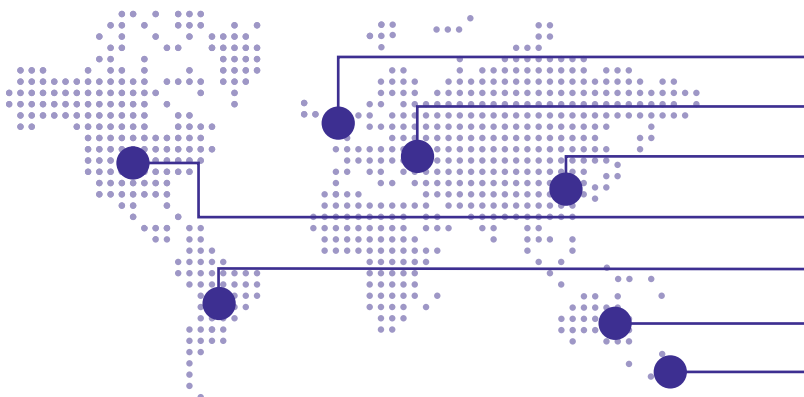
Fuelling the team will be 600kg of food, allowing 12,000 calories per person for 40 days. The food consists of dehydrated meals, meal replacement powders and biltong (South African beef jerky), the same six dehydrated meals every day. The team were insistent that the scrambled egg was surprisingly good – although without a doubt their favourite was porridge which tastes ‘normal’. Hopefully, this mountain of calories will power them through the more than four million strokes they manage during the crossing.

However, it will all be cold because Matt, the doctor, has banned any kind of cooker as treating burns at sea is not something he wants to deal with!

Whilst they are anticipating, seasickness, blisters, sunburn, boredom, homesickness and at least one capsize they know the euphoria of completing this will be worth it all. And they will have the satisfaction of having raised money for a great cause, Cancer Research UK.

If you'd like to learn more about the event, keep track of the Nauti Buoys progress and maybe even make a donation then visit www.thenautibuoy.com

Integra Technical Services Q3 and Q4 2018 new instructions



UK	68
EMEA	35
Asia	14
USA	19
Central/Latin America	12
Australia	74
New Zealand	15

TEAM IN THE SPOTLIGHT LONDON



Top row (L-R) Andrew Evans (joining 2 January 2019), Phil Poetter, Phil Durrant, Stephen Merrill, Sue Evans, Jane Morris, Steve Norrington, Richard Gross, Mark Ball, Leo Dixon. Bottom row (L-R) Margarita Gulidina, Keith Charles, Ewan Cresswell, Elias Mazara, David Silverstone, Alison Hazell, David Appleton, Laurence Goodliffe

London was where the Integra Technical Services story began back in 1998. Today, the team of 18 includes Loss Adjusters and Operational Support functions. Situated in the City of London and in the heart of the insurance market, their London head office is just a few hundred yards from the iconic Lloyd's of London building. From this office they provide Loss Adjusting services in all

corners of the world with a highly experienced team that includes Loss Adjusters with insurance, legal, surveying and environmental qualifications, as well as Chartered Loss Adjusters and Marine, Civil and Mechanical Engineers. As you can imagine getting this team together can be extremely difficult, so we have had to be a little inventive to get that elusive team photo!

But just how much do you know about this team? Take our short quiz to find out. You'll find the answers on page 4.

Can you name the person who...

1. Once sparred with the British and European Welterweight boxing champion?
2. Before becoming a Loss Adjuster designed t-shirts featuring classic British motorcycles?
3. Spent several months in Europe as a short order chef?
4. Loves the film *Lock, Stock and Two Smoking Barrells*?
5. Is a fan of the modfather, Paul Weller?
6. Likes to listen to the first African-American music act to sell out Madison Square Garden, Earth, Wind and Fire?
7. Co-owns a brewery/distillery?
8. Favourite film is *Despicable Me*?
9. Has been mistaken for Tim Henman and signed an autograph in Henman's name?
10. Dislikes the fact that their birthday is on Christmas Eve?
11. Once managed to sink a fleet of five survey boats?
12. Favourite group is The Stone Roses?
13. Has been a guest of the UAE royal family on a boat tour in the canals of Venice?
14. Plays the drums?
15. Is a fan of the film *Deerhunter*?

EVENT ROUND UP

Another busy end to the year with Integra Technical Services speaking at a number of conferences and seminars.

SEPTEMBER	OCTOBER	NOVEMBER	NOVEMBER
<p>WILLIS TOWERS WATSON CONSTRUCTION SYMPOSIUM</p>	<p>ALLIANZ GLOBAL CORPORATE & SPECIALTY REGIONAL CLAIMS CONFERENCE</p>	<p>ONSHORE ENERGY CONFERENCE</p>	<p>THE OIL, PETROCHEMICAL AND ENERGY RISKS ASSOCIATION</p>
<p>Leo Dixon presented on the topics of ‘Changes in the Loss Adjusters’ Role in recent years’ and ‘Myth busting DSU claims’. Integra Technical Services also sponsored the closing lunch.</p>	<p>Andrew Gibson and Denis Speyer presented “That’s not the chemical cargo we loaded – contamination of chemical cargoes”.</p>	<p>Sponsored the Oil & Gas Workstream with around 350 delegates. Also, Ewan Cresswell and Phil Durrant presented alongside Mike Clarke and Tiffany Drane of BCS ‘Down but not out – loss mitigation in refinery & petrochemical plant losses’.</p>	<p>Ewan Cresswell delivered a presentation at their monthly technical seminar titled ‘Mitigating refinery and petrochemical plant claims’.</p>



APPEALING THE CASE FOR SUBROGATION

Pages 20 and 21 of Issue Four of **integrated** presented an article ‘The Case for Subrogation’. This referred to **Haberdashers’ Aske Federation Trust v Lakeland Contracts & Others (2018)**, a legal decision that had raised the possibility of Construction Insurers pursuing claims against Subcontractors that may believe they are protected by the project policies. As expected Kennedy’s is appealing the decision on behalf of the Subcontractor with the case due to be heard on 22 and 23 January 2019. In the next issue of **integrated** we’ll look at the decision and its implications.

LONDON TEAM QUIZ RESULTS: 1) Keith Charles; 2) Ewan Cresswell; 3) David Silverstone; 4) Elias Mazara; 5) David Appleton; 6) Jane Morris; 7) Alison Hazell; 8) Sue Evans; 9) Leo Dixon; 10) Margarita Gullidina; 11) Mark Ball; 12) Phil Durrant; 13) Phil Poetter; 14) Stephen Merrill; 15) Laurence Goodliffe

WELCOMING NEW TEAM MEMBERS

The final quarter of 2018 has seen Integra Technical Services welcome seven new team members in Abu Dhabi, Brisbane, London and Singapore.



Mark Ball
London
Marine Civil Engineer



Phil Durrant
London
Construction & Engineering,
Energy, Mining, Property &
Business Interruption



Laurence Goodliffe
London
Construction & Engineering
Project Analyst and Loss
Adjuster



Elias Mazara
London
Credit Controller



Scott MacGregor
Brisbane
Property, Business Interruption,
Construction & Engineering and
Infrastructure



Eoin Russell
Abu Dhabi
Property, Business Interruption,
Construction & Engineering and
Ports & Terminals



Tom Wilson
Singapore
Ports & Terminals, Marine
and Offshore Industry



INTEGRA OPENS BRISBANE OFFICE

Integra Technical Services opened their fourth Australian office in October when they moved into 10 Eagle Street, Brisbane.

A prominent feature of Brisbane's skyline, 10 Eagle Street is in the heart of the City's Golden Triangle and commercial district. This new addition complements the existing offices in Adelaide, Perth and Sydney and ensures that Integra Technical Services have local resources in this key region of Australia.

PRODUCT LIABILITY AND RECALL TWO SIDES OF THE SAME COIN



Thomas Pasley

When food products pose a threat to public health, management of the recall requires an immediate response and close management of the ensuing recall and liability claims. Thomas Pasley, Specialist Food & Beverage Loss Adjuster, Integra Technical Services offers useful tips.

7 REASONS RECALLS ARE RISING:

- ✓ INCREASING PRODUCT SAFETY REGULATION
- ✓ COMPLEX AND CONSOLIDATED SUPPLY CHAINS
- ✓ TECHNOLOGICAL ADVANCES IN TESTING
- ✓ IDENTIFICATION OF NEW PATHOGENS
- ✓ ECONOMIC PRESSURES/COST-CUTTING
- ✓ RISE IN CONSUMER AWARENESS/USE OF SOCIAL MEDIA
- ✓ RETAILER/ORIGINAL EQUIPMENT MANUFACTURER (OEM) PRESSURE

An Allianz Global Corporate and Specialty research study published in December 2017 suggested that large product recall claims in food and beverage averaged EUR7.92 million in period 2011-2016, and they're becoming ever larger. It's not just that claims costs are increasing, claims are also becoming more complex as defective ingredients cascade through the supply chain. And the number of reported product recall incidents around the world is going up year on year, driven by regulation, complex supply chains and new recall triggers that can include mis-labelling and undeclared allergens, for example nut contamination.

Firms are increasingly seeking insurance to cover recall expenses, loss of profit and brand rehabilitation costs, with major food companies frequently imposing this requirement on their ingredient suppliers or contract manufacturers.

GETTING THE BASICS RIGHT

Product Liability and Product Recall Insurance are inextricably connected, but this can create tensions due to the differences that need to be taken into account when thinking about the claims management strategy. For example, product recalls require an immediate response and ownership of the problem, the antithesis of how you would traditionally approach a Product Liability Insurance claim.

A cohesive Crisis Management, Business Continuity and Claims Management Plan covering both the recall and product liability and early involvement of key experts, including the Loss Adjuster, can be decisive. These experts bring their experience of managing tens (or even hundreds) of similar incidents to the Project Control Team helping avoid pitfalls, unnecessary cost, or complication. They, particularly, contribute to the management of affected retail or wholesale customer and supplier relationships, which can help the recovery and brand rehabilitation.

Choosing different Insurers for Product Recall and Product Liability Insurance can make sense in terms of cost or coverage, but it will complicate the claims management process. A single Insurer is preferable; one set of experts working to the same agenda with singular objectives. They can balance needs of both 'sides of the coin', avoiding arguments about which policy meets specific parts of a claim and effectively managing the competing requirements of each policy. The most obvious of these is how to take ownership of a product recall while not 'admitting liability'. This is always complicated where the recall has been caused by a close third party, such as an ingredient supplier, and the immediate parties affected are your valued customers. Commercial and legal imperatives compete at each step.

Source 'Product Recall, Managing the Impact of the New Risk Landscape' Allianz Global Corporate & Specialty, December 2017

CLAIMS MANAGEMENT TIPS

When facing a product recall incident time is of the essence and important decisions will need to be made quickly. A rehearsed and practiced Crisis Management Plan will certainly help to contain costs and mitigate the financial and reputational impact but what else can help firms successfully navigate the claims management process?

1. BE REALISTIC, ASSUME THE WORST

Immediately a food manufacturer receives a complaint that one of their products has caused a health issue they must identify the cause and size of the problem. This is probably the key moment in any recall and involves: 1) testing and analysis to isolate the ingredient or process that has caused the issue and whether it relates to a single batch or multiple products over a number of days; and 2) understanding how much product is in the supply chain and its whereabouts.

Testing takes time and a decision whether to put the product on hold or recall it will need to be taken before the results are received. It's human nature to downplay the issue but that could add to the problem. The most sensible step is to take the product off the shelves until the full picture has been established.

Stopping supply and removing products requires extensive work and may damage the firm's image. But that needs to be weighed against the reputational and brand damage if the product remains in the market and more people become affected. How a company responds to a recall, whether it communicates clearly and effectively and is seen to do the right things, will affect its ability to recover its reputation.

2. DON'T DELAY

Firms may delay the implementation of the Crisis Management Plan as the magnitude or severity overwhelms key resources, or the firm is in denial, even over-confident. Enacting the Crisis Management Plan at the pre-crisis stage allows the team to convene and begin to manage the incident, importantly taking early control of the communications.

Customers have to be informed and firms will want to manage key relationships, but these customers are also potentially Product Liability claimants. Transparent and open communication can be counter intuitive with Product Liability claims. Insurers will insist that firms do not admit responsibility, however it is necessary to

Product liability, including recall, is one of the biggest risks facing the food manufacturing sector. Mislabelled and contaminated products can pose a serious public health risk, invite regulatory scrutiny and have significant financial and reputational consequences for the firms concerned. These incidents can cause production to be stopped for extended periods, for example where a pathogen has contaminated a processing environment. Firms that implement robust Crisis Management Plans quickly and take advantage of the supporting resources offered by Insurers can mitigate the effects of such claims.

acknowledge the problem and that it is being addressed. With public health issues this is now legally mandated in many territories. Crisis management experts, the firm's lawyers and the Loss Adjuster can be key advisers through this process, leveraging past experiences with similar incidents.

3. UNDERSTAND THE IMPACT OF YOUR COMMUNICATIONS

Before releasing any communication firms should carefully consider their message and evaluate how it will be interpreted. Ensuring that the firm and key retail and wholesale customers stay 'on message' can be critical and the Crisis Management plan needs to take account of the viral effects of social media.

Keeping key customers up to date and closely managing relationships during these stressful moments can build longer term trust that can actually improve the food manufacturer's image and reputation and help to contain the impact of the recall.

4. INVOLVE POTENTIALLY CULPABLE THIRD PARTIES

In food manufacturing it is highly likely that the firm recalling the product has an opportunity to subrogate their recall costs and liability exposures to a third party ingredient supplier or contract manufacturer. Raising early awareness of the incident with the third party supplier is inevitable, but of particular value is engaging them in the recall process. While not allowing a third party to influence how the recall is managed, being transparent about costs and options can eliminate conflict further along in the subrogation process. A high level of engagement essentially seeks to restrict any debate to liability rather than quantum. When subrogation is left until after the claim is resolved it can become a very lengthy process with the opportunity for the third party to challenge every decision made throughout the recall process.

MINING INSURANCE REVIEW

Integrated brought together a panel of Mining Insurance experts to consider the current insurance market conditions and claims trends and briefly discuss Parametric Insurance which is fairly new and attracting attention.

Insurance market conditions

After more than five years of soft market conditions 2018 saw the return of harder insurance market conditions for the Mining Sector. Paul Pryor, Global Mining Practice Leader with Aon explained that "2017 was the second worst year ever for global natural catastrophe claims and this was enough on its own to halt the decline in mining premium rates."

Luke Griggs, Head of Property, Energy, Mining & Utilities in Australia and New Zealand for Swiss Re Corporate Solutions added that "in 2016/17 and 2017/18 the mining sector suffered two of the worst claims years in recent history. Global mining premium is estimated at USD750 million and based on our experience over the period, the mining loss ratio was in the region of 100% plus."

Firms that had not made any claims faced small premium rate increases of up to 5%, whereas those companies that had suffered recent losses, or have specific exposures, received double-digit increases and this is expected to continue into 2019.

"Recoveries in commodity prices, also, meant that Business Interruption values increased so

mining companies were hit with a double whammy" according to Paul. This is extenuated as the business interruption element of the cover is priced differently to property damage. Stephen Thorpe, Managing Director - Asia Pacific Region of Integra Technical Services explains that "mining claims are heavily weighted toward Business Interruption, which can represent 75 or 80% of a Property Damage and Business Interruption claim."

There does not appear to be any particular claims trends. The cause of losses ranged from fires and flood to earthquakes and storms, has involved gold, coal and other commodities and affected countries across the world, from Australia to South Africa, Papa New Guinea and beyond.

Luke suggests "that studies on both the Oil and Gas and Mining industries over a 20 year period has shown that claims experience can follow the economic cycle. When commodity prices return we see a spike in claims." The reasons why this happens has not been properly evaluated but it might be reasonable to assume that reductions in things like headcount, risk management and maintenance during the down cycle play a role.

MIG Claims Protocol

The MIG Claims Protocol was put in place in 2012 to provide the basis for global best practice claim handling and a better claim outcome for large and complex losses.

"The MIG Protocol offers a good framework that can be used to determine the principle by which claims should be handled. However, it's not always about following the wording to the letter but adhering to the spirit of it" according to Luke. Stephen believes that "whilst the MIG Protocol is a lengthy document, it has great intentions and if all stakeholders live up to the 'promise' it will certainly help its success."

Matthew Frost, Vice President Risk Finance at BHP was involved at the inception of the MIG Claims Protocol concept and he feels that "the transparency and sharing of information is one of the most important parts. Having sight of the Loss Adjuster's report at the same time as Insurers allows the Insured to contest or clarify specific points and has been shown to avoid unnecessary misunderstanding and delay." Perhaps a less used and known part of the MIG Protocol is the 'circuit breaker'. This is a clause that gives Insurers or the Insured

an option to refer the claim to an independent third party if the loss has not been settled within a year. The role of this independent person is to help get the claim back on track. This may include opining on contentious matters or even suggesting a change of expert. Matthew “was not aware of this being used for any claims and wondered if a model process or more guidance was required including a panel of suggested consultants that can fill this role.”

Recently there have been some examples of Brokers using variations of the MIG Protocol. Stephen feels that “whilst Brokers are trying to create the best wording and slip for their clients, the original aim was to give certainty to the industry as a whole and this could be undermined if everyone has their own wording.” Matthew on the other hand “was concerned that some policies did not have a claims protocol at all as experience shows that this then leads to a poor claims service and outcome.”

Perhaps the application of the MIG Protocol could be improved by educating and engaging those non-insurance professionals within the Insured’s organisation and who are heavily involved in the claims process. According to

Matthew “insured finance teams may be a little cynical about the claims process, so more awareness of the key features and benefits would certainly help to spread use of the MIG Protocol.”

Paul concluded by suggesting that “the MIG Protocol has been instrumental in delivering a huge improvement and its application should definitely be supported. We have good examples of large claims being settled in quite short timeframes over the past couple of years. Now that’s probably due to a whole range of factors but I think the MIG Protocol has helped”

Parametric Insurance

Matthew suggests that “much of the cynicism relates to the time it can take to settle large losses. Insurance needs to provide better certainty of cover with faster claim settlements. We see this happening in some sectors of the market, for example Aviation Hull Insurance where Insurers like to boast of huge claims settled in a matter of days, but we just don’t see this in the Mining sector.” This is perhaps why Parametric Insurance is attracting so much interest. Developed by Swiss Re Corporate Solutions it offers coverage for a wider range of threats, exposures and perils

that are often not provided by conventional insurance.

The Insured is indemnified within 30 days in line with an agreed index and without the need for a complex loss investigation process that can absorb so much of the Insured’s resources. For example, earthquake cover could be purchased with agreed limits of cover based on earthquake strength and/or distance of the epicentre to the Insured property – or if a defined category of cyclone occurs in a given area and is verified by the Australian Bureau of Meteorology.

According to Luke “Parametric Insurance can work alongside a general commercial insurance product, providing protection for gaps in traditional indemnity based cover. That may be in respect of self-insured retentions to provide cashflow protection or simply cover tropical cyclone in Queensland which at the moment in certain parts is nearly uninsurable. Since Cyclone Debbie we’ve seen a demand surge for parametric covers and have bound several policies in Australia.”

Referring back to the earlier earthquake example, one of the quirks of the cover is that a claim payment could be made where the Insured has not suffered any significant property damage. Matthew “does not see why payment should be made without meaningful damage but with the right trigger appreciates the efficiency, certainty and speed of the claim process which is certainly a compelling feature.”



CONTINGENT BUSINESS INTERRUPTION

There is increased demand for Contingent Business Interruption Insurance (CBI), but when a loss occurs it can present some additional and unconventional claims management challenges. Having a named set of experts who can share their experience of managing supply chain losses can improve pre-loss planning, helping firms assess the adequacy of their insurance and set their CBI claims management expectations.

The nature of business operations nowadays means that business structures and supply chains are getting ever more complex and vulnerable. Highly specialised production equipment, lean production processes, just in time practices and increased global interdependencies between suppliers and customers means that a small outage can create a substantial claim. And with the concentration of production and logistics hubs, a disruptive event in certain regions can create a multiplier effect that can spread huge losses to organisations around the world.

Increased demand for CBI

Phil Durrant, Chartered Loss Adjuster with Integra Technical Services suggests that “the Business Interruption proportion of a Property Damage claim now often accounts for the majority of the loss and single risk claims exceeding USD100 million – and in some cases approaching USD1 billion - are not uncommon.” It’s hardly surprising that for the sixth year in a row the Allianz Risk Barometer 2018, a survey of 1,900 risk management experts from 80 countries, cited Business Interruption (including supply chain interconnectivity) as the most important global risk.

Global supply chains and interconnectivities are fuelling an increased demand for CBI Insurance to pay for loss of revenue or profit arising from an insured event at a

supplier’s or customer’s premises. It means that firms in a diverse range of industries that include Energy, Pharmaceutical, Telecommunications, and Manufacturing sectors such as Automotive and Electronics now view CBI Insurance as an important and valuable element of their insurance portfolio.

CBI Insurance is purchased as an extension to a Property Damage and Business Interruption (BI) policy and many of the key issues in CBI claims adjustment overlap with traditional BI, for example adjustments for market trends, wide area damage and temporary price surge. However, the scope and level of CBI Insurance is generally restricted and along with the pure third party aspect of the insurance it can pose additional and unconventional claims adjusting challenges.

Establishing loss causation and quantum

Martin Clark, Global Head of Property & Energy Claims, Zurich Insurance feels that “the most challenging aspect of many CBI claims is the Material Damage Proviso within the CBI policy. This places the onus on the Insured to prove that the policy has been triggered by the loss.” That means establishing the proximate cause of the loss; whether it is fire, flood, natural catastrophe, machinery breakdown or, hopefully, some other insured peril. Mark Lewis, Director of international Forensic Accounting firm C Lewis and Company, says “this relies on the customer or supplier to provide access to information and data, not just to help understand whether a claim is admissible but to identify the size of the potential loss, manage the claim and find ways that can reduce the supply chain interruption.”

According to Rob Powell Chief Claims Officer – International, Marsh Global Claims Practice “this is not always straightforward even with tier one suppliers, let alone sub-tier. For example, recently one of our Energy clients suffered an interruption to the supply of feedstock but when they approached the tier one supplier for information this was not forthcoming.”



Suppliers and customers are often not under any legal obligation to disclose the circumstances of an incident or provide access to information or data. They may be concerned about damage to their reputation, want to protect trade secrets or be wary of other commercial sensitivities. Where the incident involves a close supplier relationship it may be possible to gain their support, but this could require agreed Non-Disclosure Agreements (NDAs) and these are notorious for being onerous and delaying the claims handling process, due to the time necessary to negotiate a workable draft.

Martin feels that “some industries are very good at managing transparency within the customer and supplier relationships.” Others would probably prefer the removal of the Material Damage Proviso especially as the proof can be almost impossible to gather when the loss involves sub-tier suppliers and customers with whom the Insured has little or no relationship.

Ewan Cresswell, Chairman of Integra Technical Services suggests that “claims handling protocols and communication channels should be discussed and agreed at the outset of the policy. This can provide an opportunity to introduce agreements that impose a requirement on customers and suppliers to provide sales and production data, especially for those key and close relationships.”

When a loss occurs having already agreed response protocols that extend to key suppliers and customers it provides the ability to assess the mitigation options. This was evident when a supplier to a large manufacturer suffered a major fire. The manufacturer was able to gain access to the damaged property and rescue partly damaged production moulds. These were able to be repaired and delivered to an alternative supplier in a matter of days, limiting the CBI loss and supply chain interruption.



Inner limits

When a loss occurs the Loss Adjuster and Forensic Accountant will want to see the Insured's Business Continuity Plan to understand the supplier/customer independency network and potential mitigation options. Mark feels that "transparency and cooperation at this early stage of the claim is vital and can be so important to the claims service experience. By working with the Insured, the Loss Adjuster, Forensic Accountant and other experts can help to mitigate the claim."

A strong understanding of the Insured's network of supplier flows, revenue streams, internal and external dependencies is equally key to sourcing the right level of cover. This can prove to be difficult for many organisations as they may have limited visibility beyond their tier one suppliers. Some tier one suppliers might consider the sub-tier suppliers to be a key part of their value proposition and resist sharing information.

Many larger firms will focus on their top products or product lines and choose to secure the right level of cover for their critical suppliers. Unnamed suppliers may then be subject to lower sub limits and cover is frequently restricted to tier one suppliers or at most tiers one and two suppliers.

The subjectivities and assumptions built into the Business Continuity Plan can be so important to securing the right level of cover. Rob suggests that "it is not uncommon for CBI sub limits to be inadequate in the event of a loss, with claims far exceeding the amount insured." There are a vast range of reasons for this and some will undoubtedly be outside the control of the Insured. Mark suggests that "in his experience, firms often underestimate the interconnectivity within industries and regions. This was evident from the Thailand floods when many firm's plans B and C were undermined by the widespread damage." Phil believes "a named Loss Adjuster, Forensic Accountant and Business & Market Analyst who are familiar with the Insured and their industry can contribute to this pre-loss planning, using their experience with similar losses to help the Insured analyse loss scenarios and develop more robust loss mitigation options."

Policy wordings

Occasionally, poorly constructed wordings can create division and difference of opinion about the policy coverage. Rob suggests "that this can happen in two key areas, stacking limits and Interdependency Clauses."

It's already been mentioned that CBI policies have inner limits, some applying to specific circumstances such as unnamed supplier losses and others restricting the total amount payable for a CBI loss. Many London market policies will include a Stacking Clause NMA 5130 that prevents these individual sub limits from being added together to create a higher cover limit. When this type of clause is missing it can create disagreement with Insurers arguing that the stacking of policy limits was not intended.

Many firms count joint ventures and associated companies as part of their customer and supplier chain. When firms have two or more interdependent sites their policy should have an Interdependency Clause. Otherwise when a company's main premises suffers damage they will not have cover for group interdependencies and may be unable to recover end-to-end margins.

BI and CBI claims are by their very nature complicated and they can be a source of frustration for the Insured when the cover that has been purchased does not function in the way that had been expected. Involving named Loss Adjusters, Forensic Accountants and other experts at the outset of the policy coverage can help firms understand some of the nuances of the cover and be better prepared to address some of the potential contentious cover issues before a claim occurs.





MAKING MARINE EXPERIENCE COUNT

Having a highly skilled and qualified Marine Practice means we can call on Chartered Loss Adjusters, Marine Civil Engineers, Mechanical Engineers and Master Mariners at short notice to manage claims anywhere in the world.

Whether it's fixed object damage, loss of cargo, damage to a ship, offshore facility or machinery we have the expertise and can provide independent marine engineering consultancy to help repair fixed object damage in ports and terminal quickly and cost effectively.

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PORTS & TERMINALS | HULL & MACHINERY | MARINE CARGO | PROJECT CARGO | MARINE LIABILITY | CONSULTANT MARINE ENGINEERS

A CONSISTENT PROCESS

Natural disasters such as hurricanes and cyclones can wreak havoc across a vast area with their destructive winds, heavy rainfall, flooding and sometimes harmful storm surges. Damage to key infrastructure is to be expected and this can often include interruption to mobile telephone networks that can be so important to the relief and recovery efforts. These interruptions are usually caused by a mixture of damage or destruction of cell phone masts and power outages.

When this happens it usually means damage spread across a wide area and often in remote and difficult to access locations. Only the most severe catastrophes will completely knock out a mobile phone network, cell mast configuration usually means that the mobile phone company is instead faced with reduced network coverage and signal quality and potentially a sizable daily revenue loss.



FIRST PRIORITIES

Scott MacGregor is a Senior Loss Adjuster with Integra Technical Services and has significant experience dealing with major losses involving wide-spread infrastructure damage. He suggests the “first priority is to help the Insured get back up and running and make sure that there is an agreed process in place to identify the damage and validate the claims. The Insured will be looking for assurance about the certainty of insurance and this will most definitely support that objective.”

Quite often firms will use their own network of engineers spread across a broad area so it's important they follow a structured methodology, where they report on the same basis and make consistent repair or replace decisions. Scott worked on a sizeable claim some years ago where “the Insured head office were suggesting that the damaged mast equipment would be replaced, yet it quickly became apparent that the engineers were going to upgrade some of the older equipment which hadn't previously been contemplated by head office.”

FOCUS ON QUICK WINS

Getting the network up and running requires the Project Control Team to address a number of early challenges. Where masts have suffered a power outage, how easy is it to get fuel generators to the sites of those masts which will deliver the most benefit? Is it possible to use a cell on wheels (COW) where the network has 'blank' spots?

QUALIFY BUSINESS INTERRUPTION INSURANCE CALCULATIONS

As Scott explains this raises a Business Interruption (BI) Insurance coverage question. Does the BI Insurance cover loss of power where this does not result from property damage?

This is not the only BI Insurance consideration; whilst the reduced network coverage may affect revenue in some areas, it generally follows that mobile phone usage increases following a loss. Equally, whilst a telephone mast may be out of use and not generating revenue it's signal would normally pass to the next telephone mast, which may be generating double the usual average revenue. And finally, there is the 'but for' test and whether that relates to the event or damage to the property.

USE EXPERTS TO ASSESS DAMAGE

The telephone masts will each have complex electrical equipment, including a computer control panel. Where the mast has toppled damage to the electrical equipment can be obvious, but that is not always the case. The telephone company will want to be sure that the equipment has not suffered any hidden damage that could lead to early degradation or deterioration and increase their operating costs in the future.

Scott suggests that “an expert electrical engineer that can check an early sample of damaged masts can be invaluable. They can help the Insured make sensible decisions not just in terms of damage assessment but the repair methodology. Time and again I've seen these experts help both Insured and Insurers.”

Following a process that helps the Insured get up and running and provides them with certainty of insurance is important for all major losses. The distinction with infrastructure losses that spread across a wide area is making sure that there is a structured and consistent process in place to identify damage and validate claims.

THE NEW NORMAL – OR THE CALM BEFORE THE STORM?

Deep sea oil drillers are more optimistic than they've been since the oil prices first tumbled in 2014. According to Morgan Stanley explorers are expected to boost spending 45% to USD188 billion by 2022, whilst major oil trading houses are predicting the return of USD100 crude. Rig reactivations will need to be managed carefully to avoid a sharp increase in incidents.

When oil prices fell below USD40 per barrel in 2015, from a high of over USD100 in 2014, the industry was effectively forced into dramatic cost cutting measures. Some 2,000 rigs were cold stacked, warm (or sometimes called hot) stacked or scrapped in 2015 and 2016 as the industry battled to survive the tough economic conditions.

A 55% reduction in the number of active rigs was just part of the story as firms did all they could to get back to a positive profit margin. Often called right sizing the measures have rejuvenated the workforce and brought the sector up to speed with other industries with the use of modern diagnostics to monitor equipment performance (and degradation) and allow support by a global network of experts in real time.

WARM OR COLD STACK RISKS

Since the end of 2016 active rig numbers have started to increase, with 600 rigs coming back into service. Reports coming from some of the world's biggest owners of rigs suggest that inquiries are back to levels not seen since 2012.

Phil Poetter, Engineering Adjuster with Integra Technical Services suggests that "the choice of

whether to cold or warm stack was mostly defined by the drilling contractor's financial position and its outlook on fleet utilisation."

Common issues likely to be experienced after a period of deactivation include corrosion and degradation of the structure and mooring system, with Mobile Offshore Drilling Units (MODUs) laid up with complex drilling package machinery and electrical equipment impacted most after a period of non-activity. According to Phil "there is a track record of vessel reactivation in the marine space, from which best practices have been developed. Modern diagnostic equipment and the use of dehumidification and other measures that inhibit corrosion to the structure, machinery and electrical equipment to accelerate the reactivation phase, mitigate risks and contain costs."

INSURANCE MARKET CONTRIBUTION

Phil explains "we've recently seen the focus on processes extend into the insurance market with the Joint Rig Committee updating its JRC Lay-up Warranty Endorsement (JR2018-007A) and the release of a corresponding JRC Reactivation Warranty Endorsement (JR2018-007B). This makes the Lay-up, Reactivation and Moorings Endorsement, Code of

Practice and Scope of Work bundle a seamless tool that provides market guidance for Underwriters and Brokers.”

Whilst these Endorsements were originally designed for MODUs there are sections that are equally applicable to reactivating land rigs. However, it's important to recognise that these are just guides and each rig will require its own unique reactivation plan.

REMAINING DISCIPLINED

The earliest we will see the new Endorsements being applied is in Q1 and Q2 2019. It remains to be seen how broadly these will be applied, especially with the insurance market remaining competitive and claim levels relatively low. One note of caution though, it is highly likely that the rigs being reactivated in the first instance are newer generation with a higher commercial value and, therefore, are ones that were warm stacked.

Reactivating cold stacked floaters requires a greater investment and to make this feasible would require a sustained period of higher crude prices - as well as need an extremely positive outlook for longer term drilling contracts. Should the rig count increase to previous utilisation levels could we see older, cold stacked rigs being reactivated? These are more likely to have a higher failure rate potential, so could result in an increase in claims.

Phil suggests that “to best manage frequency of issues that might arise, a rig reactivation process requires a continued dialogue between insurance market participants and the involved engineering disciplines: Drilling Contractors, Class, Inspection Companies, Regulators and Marine Warranty Surveyors.”

WARM AND COLD STACKING EXPLAINED

For those of you that are new to stacking, it can take two different forms:

Warm (or Hot) Stacking involves keeping an active skeleton crew on the rig and conducting regular maintenance to ensure a smooth reactivation.

Cold Stacking is the equivalent of mothballing a factory in manufacturing - rigs and equipment are packed up and stored.



RESOLVING CLAIMS FOR PV MODULES

AS RENEWABLE ENERGY BEGINS TO COMPETE WITH FOSSIL FUELS IN THE RACE TO MEET THE BURGEONING POWER DEMAND IN SOUTHEAST ASIA, THERE HAS BEEN A DRAMATIC INCREASE IN THE CONSTRUCTION OF LARGE-SCALE SOLAR POWER PLANTS IN THE REGION. THIS IS INEVITABLY LEADING TO A RISE IN CLAIMS AND A DEMAND FOR EXPERIENCE AND INNOVATION TO OVERCOME POTENTIAL CLAIM DISPUTES.

Global and regional investors have been attracted to solar by tax incentives, Feed-in-Tariffs (FiT), subsidies, and the continuing fall in the price of PhotoVoltaic (PV) modules. You only have to look at the Philippines and Thailand to see the extent of these investments. Research by Solarplaza suggests that the Philippines had less than 30MW PV capacity in 2014; today it stands at over 900MW and they expect to grow this to 3GW by 2022. During the same period, the regional solar leader,

Thailand, has more than doubled PV capacity. There are naturally more claims for PV modules and Matt Robinson, Senior Adjuster with Integra Technical Services in Singapore, suggests that “the assessment of PV module damage can pose difficulties for Insurers, the Insured and other stakeholders, and on a number of recent claims we’ve been exploring solutions to overcome these challenges for the benefit of all parties.”

FEAR OF DAMAGE

Events such as flooding are commonplace in the tropical climate of the region, and widespread flood damage can involve many thousands of solar panels. The industry standard is for PV cells to be resin encapsulated and for panels to have a waterproof rating to allow for most weather conditions. The trouble is that fully submerged panels can potentially suffer water ingress and delamination that can bring about corrosion and degradation which may affect long-term performance.

As Matt points out, “even if the panels remain watertight, exposure

of array boxes to water can result in ground faults affecting the connected strings of PV modules. The risk of flooding damage is also higher during the construction phase as back panel connections can be exposed.”

Across the industry, PV module manufacturers offer 25-30 year performance warranties guaranteeing a maximum reduction in power output over the life of the equipment. Typically this will allow an initial degradation in the first year of operation (~3%) followed by a much smaller reduction per annum thereafter, with a guaranteed minimum power rating after 25 years of ~80%. Damage or degradation of

PV modules due to an insured event can be measured against this warranty curve, with the results then compared to a control group of undamaged panels to ensure the manufacturers performance promise is justified, *see chart opposite.*

Solar plant operators may present claims due to a ‘fear of damage’ driven by concerns about long long-term performance, or voided manufacturer’s warranties. Such ‘fear of damage’ is insufficient to trigger coverage under the construction or operational insurance policies and testing is therefore necessary to prove the insurable loss and the extent of physical damage.



TEST OPTIONS

Manufacturers often suggest that a full battery of testing is required, such as those used in the International Electrotechnical Commission (IEC) accreditations. These types of test are performed in laboratory conditions, with the sample size severely restricted by the number of test rigs available and test duration. Matt feels that “such testing is more appropriate for design qualification rather than establishing damage or performance degradation. Consequently, reaching an agreement with interested parties on the scope of testing is a crucial step in resolving large-scale PV module claims.”

The economics of testing can equally be a significant issue, particularly in the construction phase where manufacturers often offer reduced equipment prices to secure lucrative long-term service contracts. With unit prices of PV modules continuing to fall, the expense of panel demounting, transportation, testing and

reinstallation may exceed the cost of a replacement panel. As a result, claims for widespread panel replacement can place Insurers in an unsatisfactory position where there is no proof of insured damage to trigger the policy. Specialist consultants are now able to offer on-site performance testing with portable equipment at a fairly modest price per panel, which can then be verified against a small sample laboratory test.

Matt explains, “Integra Technical Services has found this approach useful on a number of occasions in identifying a specific pattern of damage. For example, ascertaining a notable pattern of degradation in the first few panels at the low voltage end of the PV module strings. This has enabled settlement to be reached based on the established extent of damage without Insurers paying for undamaged equipment, whilst allaying the operator’s concerns about long-term performance issues.”

“Alternative approaches could include the purchase or hire of test equipment

and the establishment of workshops on site to conduct testing and basic panel repair or restoration in order to mitigate transportation expenses.”

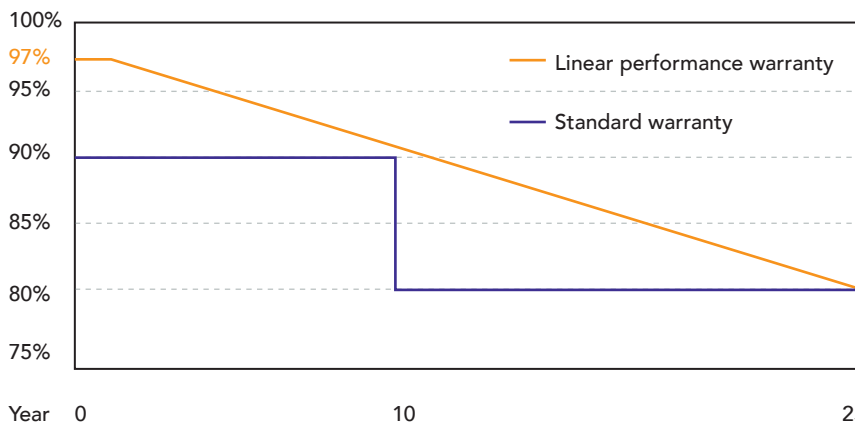
CONCLUSION

Considerable experience in the solar energy sector is imperative to resolving potential disputes and to reach an amicable and technically sound settlement of PV module claims. In the majority of claims involving large numbers of PV modules, issues of testing, voided warranties, limited repair options, and long-term performance concerns can be resolved with appropriate technical knowledge and using innovative solutions to bridge the void between the requirements of Insurers and concerns of the Insured.

To find out more about Integra Technical Services’ Renewable Energy Practice email matt.robinson@integratechnical.com

25-YEAR LINEAR PERFORMANCE WARRANTY

Performance Warranties can themselves be subject to insurance policies taken out by the manufacturer.



ANGLES, VELOCITY AND MOVEMENT

Claims for damage caused to berthing structures in ports and terminals can present a range of different challenges. The support of an experienced marine civil engineer can often make the difference in managing the claim efficiently and cost effectively.

While berthing structures take many different forms they are damaged by the same common causes. Whether we're looking at the fenders or the berthing structure be it a dolphin, sheet pile, blockwork quay, or a suspended quay, damage is generally caused by ship navigational errors, manoeuvring errors, movement of moored vessels, excessive speed or non-parallel approaches during berthing.

In the past 40 years globalisation and the growth of world trade has resulted in ports being busier than they have ever been, and ships considerably larger. For example, the largest container vessels are now 500% bigger than they were in the early 1980's. Mixing these ingredients together, it's perhaps not surprising that we continue to experience a fairly high frequency of claims for damage to berthing structures.

Berthing angle and velocity

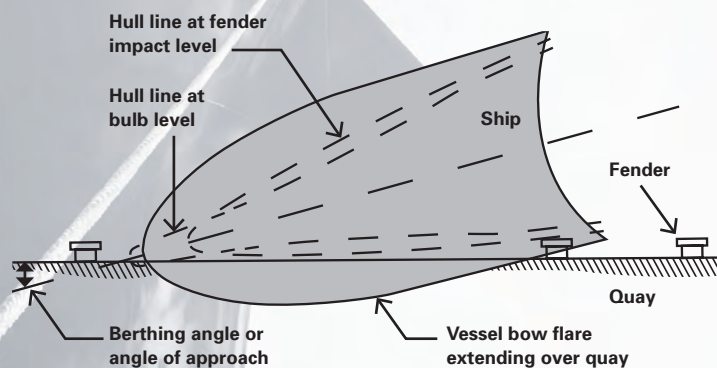
Most marine structures are constructed to internationally recognised standards in many parts of the world and the standard that is applied is BS6349 (The Code of Practice for the Design of Maritime Structures). This takes account of the size and manoeuvrability of the berthing vessel to calculate the forces imparted into the berthing structure, but

the fact remains that fenders should be the only point of contact with the marine structure.

There is no doubt that when the ship and berthing structure come together it's a complete mis-match. Large vessels have a huge mass, often many hundreds of thousands of tonnes, and even with the very slow speeds this leads to huge forces. Mark Ball, Marine Civil Engineer with Integra Technical Services points out that "more often than not the damage is caused by the bow of the vessel striking the berthing structure. The stem and bulbous bow are extremely strong, and high contact forces result from the small impact area."

Stern impacts generally result in a larger contact area but can involve huge forces. A large vessel may have momentum and whilst she may just 'lean' on the fender, the force involved can cause overloading and displacement of the fender system and damage to the supporting structure.

Keith Charles, Marine Civil Engineer with Integra Technical Services, suggests that "most berthing structures have individual, discrete fenders at designed spacing or locations to take account of the geometry of the vessels using the berth, the maximum angle of approach and the velocity."



Increased berthing angles expose berth to bow (and stem) flare

Generally, fenders assume a berthing angle of 5-10% which means that vessels berthing at greater angles can lead to contact with the berthing structure or its topside facilities which are necessarily close to the edge of the berth. And often the contact between the bulbous bow and the berthing structure is below water line. As Mark explains “a bulbous bow can easily penetrate a reinforced concrete blockwork or sheet pile wall, or caisson or completely detach a supporting pile, with minimal damage to the vessel itself.”

The speed at which ships should approach a berthing structure is calculated using a specific formula, but generally 0.15m/s is the most common berthing velocity for large vessels berthing inside a port basin using a tug. Just to put this into perspective the average person walks at 10 times this speed. When vessels exceed the speed the potential for damage increases exponentially with the rise in velocity. Mark explains “fenders are designed to absorb some contact but when the impact exceeds these thresholds the impact energy is passed into the berthing structure.”

Repair costs

Keith feels that “the extent and cost of the damage to the berthing structure frequently confounds the Shipmaster, who will often refer to normal or slight contact and little, if any, damage to the vessel.” There are many reasons for this, not least that the cost of repairs to marine structures is always significantly higher than similar works on dry land. Access can be difficult, works are required to be to a higher standard to avoid corrosion and specialist

marine equipment such as fenders, loading arms, etc. are expensive. And, if the damage is underwater, or the repair requires the use of floating plant, then the costs will most certainly be considerable.

The other key consideration is the loss of use, as even the smallest of damage to a berth can severely restrict operations in the port. “Most underwater repair works are technically complex, take a long time to execute and are costly to supervise. For example, underwater welding is slow and requires a dive team that has a minimum of three divers (one in the water, one fully dressed standby safety diver and one tender). However, more often, four or five divers are required by company procedures to carry out a weld that would be undertaken by one man on dry land” explains Mark.

Involve experts

All too often a claim is initially reported in a way that leads the Port’s Insurer or the vessel’s P&I Club to assume a low claims reserve and a local, less experienced engineer is then engaged to assess the damage and design the repairs. This, more often than not, will lead to a more expensive solution.

Keith suggests that “a Marine Civil Engineer that has experience of berthing structure damage and repair can bring pragmatism to the repair. Sometimes the Port might be looking toward a complete replacement when there are other effective and cheaper options.” Also, occasionally the Shipmaster will contest that they have caused damage and having someone experienced and able to interpret VDR (Vessel Data Recording) or AIS (Automatic Identification System) data to plot the vessels path can help resolve these types of dispute.

Mark Ball and Keith Charles are part of Integra Technical Services’ Marine Practice. Between them Mark and Keith have over 30 years of experience of investigating vessel damage to structures and have investigated in the order of 700 incidents worldwide.

BY YOUR SIDE

We are specialists in the settlement of complex insurance claims involving Property Damage, Machinery Breakdown, Business Interruption, Delay In Start Up and Specialist Liabilities.

By working in harmony with the Insured, (Re)Insurance Brokers and (Re)Insurers our team of Chartered Loss Adjusters, Chartered Surveyors and Marine, Civil and Mechanical Engineers have built a strong reputation for settling claims of differing complexity and quantum in every continent of the world.



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