News from the International Association of Engineering Insurers

Unexploded aerial bombs of WW II becoming a greater problem in German cities – see more inside Nr.9

Here a controlled explosion in Munich after failure to defuse one.

In this edition

<table>
<thead>
<tr>
<th>Nr.</th>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>News from the Executive Committee</td>
<td>2</td>
</tr>
<tr>
<td>2</td>
<td>What is new on <a href="http://www.IMIA.com">www.IMIA.com</a></td>
<td>2</td>
</tr>
<tr>
<td>3</td>
<td>London Power Forum 2012</td>
<td>3</td>
</tr>
<tr>
<td>4</td>
<td>Mounting Losses in the Power Sector</td>
<td>4</td>
</tr>
<tr>
<td>5</td>
<td>Swiss Re estimates its claims burden from Hurricane Sandy at around USD 900 million</td>
<td>7</td>
</tr>
<tr>
<td>6</td>
<td>Mediate, Litigate or Arbitrate</td>
<td>7</td>
</tr>
<tr>
<td>7</td>
<td>Collapse of new bridge - China infrastructure</td>
<td>9</td>
</tr>
<tr>
<td>8</td>
<td>Moscow Federation Tower</td>
<td>10</td>
</tr>
<tr>
<td>9</td>
<td>Unexploded bombs in war-stricken areas</td>
<td>11</td>
</tr>
</tbody>
</table>
1. News from the Executive Committee

The EC had a meeting on 22nd September, 2012 in Rio de Janeiro. Here are some of the key points:

- Based on a survey on knowledge sharing, wherein the majority of our Members participated, the EC had decided to launch an Engineering training course for IMIA members. More details were agreed and subsequently presented to the conference participants. The invitation documents have meanwhile been completed and sent to all Delegates and a copy is kept also on the IMIA website – Members’ Area. See the link in the Members’ News Box.
- The IMIA subcommittee working on statistics had prepared recommendations for further improvement of the data quality which were discussed and subsequently presented to the conference.
- Further details can be found in the Members’ Area – Minutes of Executive Committee Meetings.
- A summary report following the conference has been sent to all conference participants.
  - On 29th Nov. 2012 the EC had its last meeting in London, mainly dealing with
    - the Engineering Training Course which focusses on junior underwriters, is meant to convey some deeper insights and will take place in Berlin from March, 11-15, 2013 – more information available on www.imia.com / members area
    - the ongoing restructuring and redesign of IMIA’s web page
    - and preparations of the next annual IMIA conference taking place in New Delhi from Sept. 21-25,2013
    - Minutes of Meeting will be on www.imia.com soon.

2. What is new on www.imia.com

- The five WG papers presented and released at the conference in Rio de Janiero are now on the web page www.imia.com/library.
- The respective WG presentations are also on the website/Members’ Area – Information on Past Conferences.
- Three of the Guest presentations can also be found on www.imia.com/library.
- The updated IMIA Premium and Loss statistics (completed in Oct. 2012) are also to be found on the web page Library now.
- For brief summary reports on the Rio conference and the Working Group papers presented please see under About IMIA – Press Releases
- Information on the Engineering Training Course as mentioned in chapter 1 is on the web page /member area. Note that number of participants is limited.
Generally, an overhaul of the IMIA web page is under way. In a first phase the contents have been restructured, using most actual content management systems and tools. In a second phase the design will be reconsidered and adjusted to the progress made in this field.

Not all of you may be aware that there is an IMIA Group in LinkedIn, in which some interesting discussions will start soon. You find it in www.linkedin.com > go to groups and then to:

IMIA - International Engineering Insurance Association

For your information here is a screenshot:


On 6th November the London Power Forum held its annual one-day conference in London. This was attended by over 200 delegates including insurers, brokers, adjusters, technical specialists, lawyers, risk managers and equipment manufacturers. The forum is hosted by a committee drawn from Aegis, Catlin, Chartis, Torus and Travellers.

The following presentations were made:
• Risk Managers Perspectives of the Market and Loss Prevention Initiatives - Steve Willis (Insurance Manager, GDF Suez)
• Market in Transition - Scott Sink (Senior Executive Vice President, McGriff, Seibels & Williams, Inc.)
• New London Power Wording - Nigel Davies (Wordings Manager, AEGIS London)
• Impact of Solar Flares on Power Infrastructure - Jason Reeves (Zelle Hofmann) and Bill Murtagh (The Space Weather Prediction Centre)
• Rotating Equipment Review: Current and Future Issues - Mark Bremmer and Bob Daniels (M G Thomas and Associates)
• Electricity Market Reform - Nigel Chapman (Partner, Clyde & Co)
• Claims Experience from the Renewable Sector - Richard Radevsky (Director – Non Marine, Charles Taylor Adjusting) & Matthew Yau (Adjuster, Charles Taylor Adjusting)
• Recent Developments in Power Claims in the Middle East, Mediterranean and North Africa - Hugh Kennaway (Executive Director, Cunningham Lindsey).

The day included also a panel discussion on the Current Power Market chaired by Luis Prato (Senior Class Underwriter, Catlin Underwriting) with the following Panel Members:

• Steve Willis (GDF Suez)
• Scott Sink (McGriff, Seibels & Williams, Inc.)
• Nick Rnjak (Chief Underwriting Officer, Travellers Syndicate Management Ltd),
• Rob Collecott (Head of Downstream and Power, Miller Insurance Services LLP)

The presentations will be made available on the London Power Forum website at www.londonpowerforum.com
Discussions were focused on why the London market is less prominent than it used to be in writing international power insurance and profitability of such business given the current premium levels.

The new power wordings LMA 3109 (Rest of the world excluding US) and LMA 3110 (USA form) are available at www.lloyds.com/wordings. To use the Lloyds wording repository it is necessary to register but details of how to do this are shown on the website.


Participants in the 45th Annual Conference of IMIA in Rio de Janeiro may remember the presentation “What has happened in the past 12 months”, according to which losses (material damage losses, floods and Business Interruption resp. DSU losses) have risen dramatically on a global scale. A study performed by Don Schubert, Marsh Energy Practice, is in tune with this message.

The following article is printed in full with the kind permission of the Combined Cycle Journal and taken from their web site www.ccj-online.com:

Mounting losses for insurers mean higher premiums, deductibles for power plants owners

Posted on September 19, 2012 by Team CCJ

Don Schubert, Senior VP, Marsh Energy Practice, is one of very few people who get applause and gain respect for delivering bad news. An engineering professional with more than 30 years of experience in boiler and machinery insurance, Schubert told attendees at CTOTF’s™ 37th Annual Fall Turbine Users Conference and Trade Show that as industry losses continue to mount insurance premiums and deductibles would continue to climb. This year premiums increased by up to 18%.

Insurers are not making money serving the electric power industry today, paying out $1.12 for every dollar received in premiums. Losses exceeding $100 million are occurring with increasing frequency and business interruption coverage is costing
carriers big bucks. There are now about a dozen and a half insurance companies serving this market sector worldwide, two fewer than there were only recently.

In the last six to nine months, Schubert said, deductibles and captive numbers have increased dramatically. For example, deductibles for plants with a poor history have jumped in some cases from a nominal $5 million to $10 to $20 million. In addition, the primary captive layer for generating companies has gone from a typical $8 million annual aggregate ($4 million per occurrence) to $20 million or so, with one company said to be at $50 million. This means the onus is on the plant manager to protect the company’s captive layer.

It’s important to recognize that insurers are limited in their ability to control losses: They cannot tell you how to run your plant. Their only options are to increase your cost of insurance, change your coverage, limit their liability through restrictions, and not renew your policy. Restrictions might be limits on downstream damage, a requirement to use OEM parts, limits on starting time and ramp rates, etc.

Schubert presented a chart of property-loss experience for 2011 that revealed large industrial engines accounted for 28% of the losses in plants powered by gas turbines, down from 36% at the height of the bubble. Transformer losses have increased significantly over the last five years, he said, while other percentages have remained about the same over that period of time. There were four significant compressor wrecks last year, but none in the US.

Another slide showed that three-quarters of the losses for plants with GTs occurred following the start of pre-operational testing and that nearly three-quarters of those losses involved people. The insurers’ perspective is that the loss of plant-level O&M expertise has been expensive. Schubert said that upwards of 4% of a given plant’s premium is based on the insurers’ perception of how good an operator you are.

Shifts and changes in technology by the OEMs give insurers concern, Schubert continued. He offered this view of the industry’s mindset: “Show me positive operating results for a year on the third machine of a model series and I’ll consider an adjustment in risk assessment.” Not surprising then is that none of the latest machines offered by the OEMs—such as the H and J classes—are considered “proven technology” by the insurance industry. However, at least one reportedly is close to gaining acceptance.
Talking about losses – here is an update of 26 November 2012 on the Hurricane Sandy

5. Swiss Re estimates its claims burden from Hurricane Sandy at around USD 900 million

Swiss Re estimates its claims burden from Hurricane Sandy to be around USD 900 million, net of retrocession and before tax

Total insured losses estimated between USD 20 - 25 billion

Estimates are affected by complex loss assessments, especially in business interruption coverage, and are subject to significant uncertainty

Swiss Re estimates its claims burden from Hurricane Sandy at around USD 900 million, net of retrocession and before tax. This estimate is subject to a higher than usual degree of uncertainty and may need to be subsequently adjusted.

Hurricane Sandy, which made landfall in the US on 29 October 2012, caused high winds and storm surge, resulting in extensive flooding and loss of life and property. Before it hit the US, Hurricane Sandy affected the Caribbean and The Bahamas.


Interestingly there are reports that renewable-energy-plants suffered less damages than conventional one. Check out for yourself under


Even if the interested reader assumes that these comments could be slightly biased, it will certainly be interesting to follow this up and draw conclusions from more hard facts in due time.

6. Dispute resolution

We received a very interesting article on dispute resolution prepared by Peter Hirst, Clyde & Co, London which we print here with the kind permission of Clyde & Co (and which you find in the internet under [http://www.clydeco.com/insight/articles/mediate-litigate-or-arbitrate](http://www.clydeco.com/insight/articles/mediate-litigate-or-arbitrate))

**Mediate, Litigate or Arbitrate?**

In SulAmérica v Enesa, the Court of Appeal in its Judgment last week considered a number of issues which will be of widespread interest to insurers and arbitration practitioners, writes Peter Hirst of Clyde & Co.
The case concerned a dispute between Brazilian Insurers and Insureds following riot damage at the Jirau Hydroelectric project. Insurers declined cover, commenced arbitration in London and obtained an anti-suit injunction restraining Insureds from pursuing proceedings in Brazil. Insureds unsuccessfully appealed that decision.

**Governing law of an arbitration agreement**

The policy contained a London arbitration clause and an express Brazilian law and jurisdiction clause. Normally, in the absence of any contrary indication, an express choice of law clause is a "strong indication" of the parties' intention that that law will govern the arbitration agreement.

However, in this case the Court of Appeal found two important factors which pointed the other way:

(a) The parties had chosen England as the arbitral seat. That choice "invariably imports" an acceptance that English law and the Arbitration Act 1996 will apply to any arbitration commenced under the policy; and

(b) If Brazilian law governed the arbitration agreement, it would arguably be enforceable only with Insureds' consent. That was a "powerful" factor since there was nothing to indicate that the parties had intended to enter into a one-sided arbitration agreement.

The Court of Appeal concluded that the arbitration agreement had the closest and most real connection with English law and should proceed in England.

**Obligation to mediate**

The policy contained a mediation clause by which the parties agreed to "seek to have the dispute resolved amicably by mediation", failing which the dispute could then be referred to arbitration.

The Court of Appeal accepted that the parties intended the mediation clause to be enforceable, but found that the clause was not enforceable because it failed to define the parties' rights and obligations with sufficient certainty. In particular, it did not set out any defined mediation process or refer to the procedure of any specific mediation provider.

**Scope of an arbitration agreement**

The agreement provided that if the parties failed to agree "as to the amount to be paid under this Policy" they would arbitrate the dispute.

In seeking to clarify this often used policy form, the Court of Appeal found that a failure to agree "as to the amount to be paid under this policy" can include disputes about whether any sum is due under the policy at all and Insurers had been entitled to refer matters of policy liability to arbitration.
Comment

The case confirms that in the absence of an express or implied choice of law to govern an arbitration agreement, the Court will use the "closest and most real connection" test. An agreement to arbitrate often has its closest and most real connection with the law of the arbitral seat. In the case of mediation, the case highlights the importance of setting out a clear mediation process to ensure the mediation clause will be enforceable. The case also confirms that a "quantum only" arbitration clause will include matters of policy coverage and liability and will assist Insurers and Insureds alike in limiting the scope for a multiplicity of proceedings.

7. Collapse of new bridge underscores worries about China infrastructure

One of the longest bridges in northern China collapsed on Friday, Aug 24th 2012, just nine months after it had opened. Chinese Internet users were set up and asked about the quality of construction in the country’s rapid expansion of its infrastructure.

A nearly 330-foot-long section of a ramp of the eight-lane Yangmingtan Bridge in the city of Harbin dropped 100 feet to the ground. Four trucks plummeted with it, resulting in three deaths and five injuries.

According to the official Xinhua news agency, the Yangmingtan Bridge was the sixth major bridge in China to collapse since July 2011. Chinese officials have tended to blame overloaded trucks for the collapses, and did so again on Friday.

Chinese news media reported that the bridge had cost 1.88 billion Renminbi, or almost US$300 million.

Source: China Daily Mail • August 25, 2012
The Moscow Federation Tower is being built on the Moscow International Business Centre. The project consists of two towers built on one podium. The East Tower is going to be a 93-storey structure; the West Tower will be a 62-storey structure.

The first building was designed to become one of the tallest in the world. The construction of the towers had started in 2003. After an interruption works resumed in 2011 and are now expected to be completed in 2013.

On April 2, 2012 a fire broke out on the 67th floor of the unfinished building (250 meters above the ground) and spread to several sections on the 66th and 65th floors. It took fire-fighters and military personnel four hours to contain the fire.
9. Unexploded bombs in war-stricken areas

Nearly every day in Germany undetected bombs from WW II are found, usually during excavation works.

Here an example from Munich, which had occurred in August, 2012.:

A heavy bomb of 550lb was found beneath a site in Munich, Germany until a digger unearthed it. Trying to defuse the device had failed. A controlled explosion was chosen as the only alternative. A blast heavier than expected resulted and caused extensive material damage to the surrounding area (see photo on page 1).

City officials believe that 2,500 unexploded bombs are still buried in Munich area. Allies had dropped 2.8million tons during WWII (75,000 tons unleashed on Britain).

In the whole of Germany, more than 2,000 tons of American and British bombs and all sorts of munitions ranging from German hand grenades and tank mines to Russian artillery shells are recovered every year. Detonators are disintegrating at an increasing rate. Experts warn that within a decade bombs could detonate by themselves or will be too unstable to defuse if discovered. This means that some bombs could explode before being discovered and others will be more difficult to defuse.

In all it is calculated that a little under 285,000 tons of Allied bombs remain buried in German soil.


Insurance considerations: in Germany material damage caused by undetected aerial bombs is usually covered in property and construction insurance. Of course, this peril will also have to be taken into account by underwriters in any other area of our globe – wherever war has raged in the past.

Worth while giving it a thought!

hhm – Dec 1st, 2012