

# **Institute of Energy for SE Europe - IENE**

**Eugenides Foundation Conference Center, Athens**

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## **Energy & Shipping Seminar**

### **LIABILITY INSURANCE**

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# **Energy & Shipping Seminar- LIABILITY INSURANCE**

Insurance from covering traditional Tangible Assets (Property, Hull & Machinery, Cargo etc), evolves to cover Intangible Assets (Liabilities) following evolution of the business of the society!

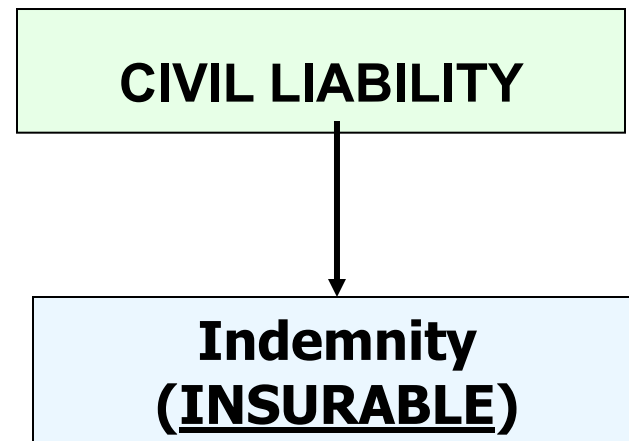
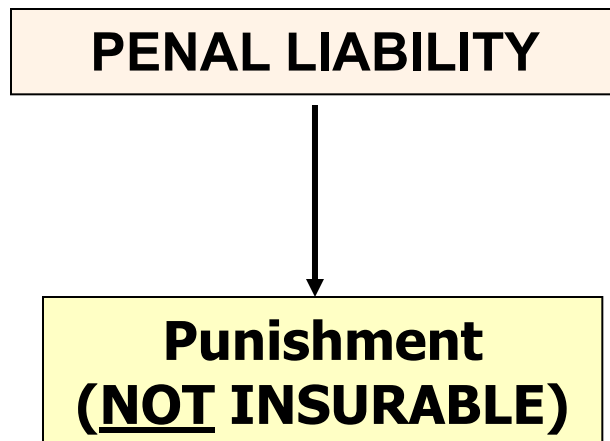
## **Main points of presentation**

- **Basic Features of Liability**
- **Business Environment & Liabilities**
- **Types of Liability Insurance**
- **Market's current trends regarding liability**

# Energy & Shipping Seminar- LIABILITY INSURANCE

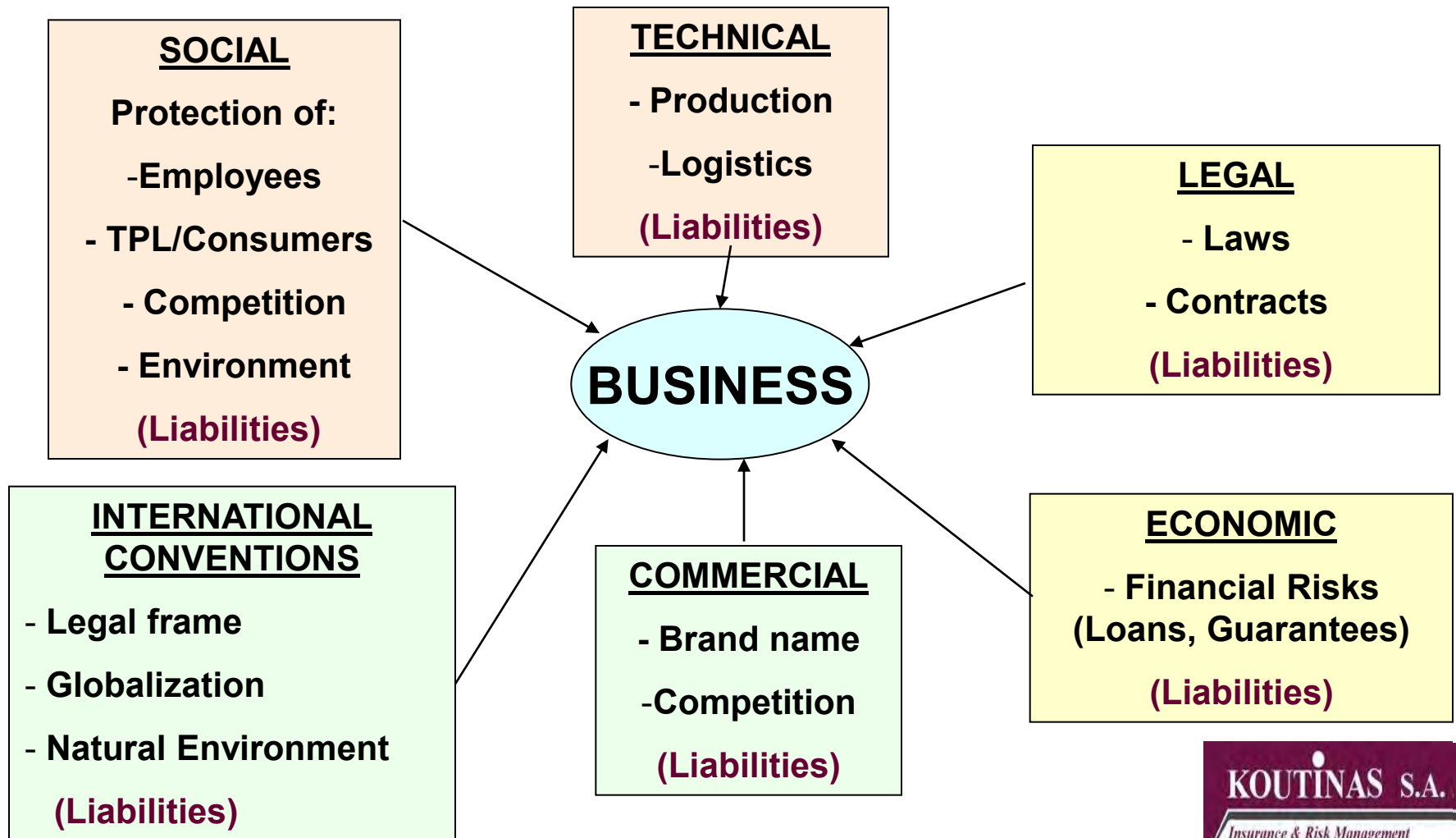
Liability Insurance becomes more and more important and legally more and more severe (strict) ...

## Legal Liability



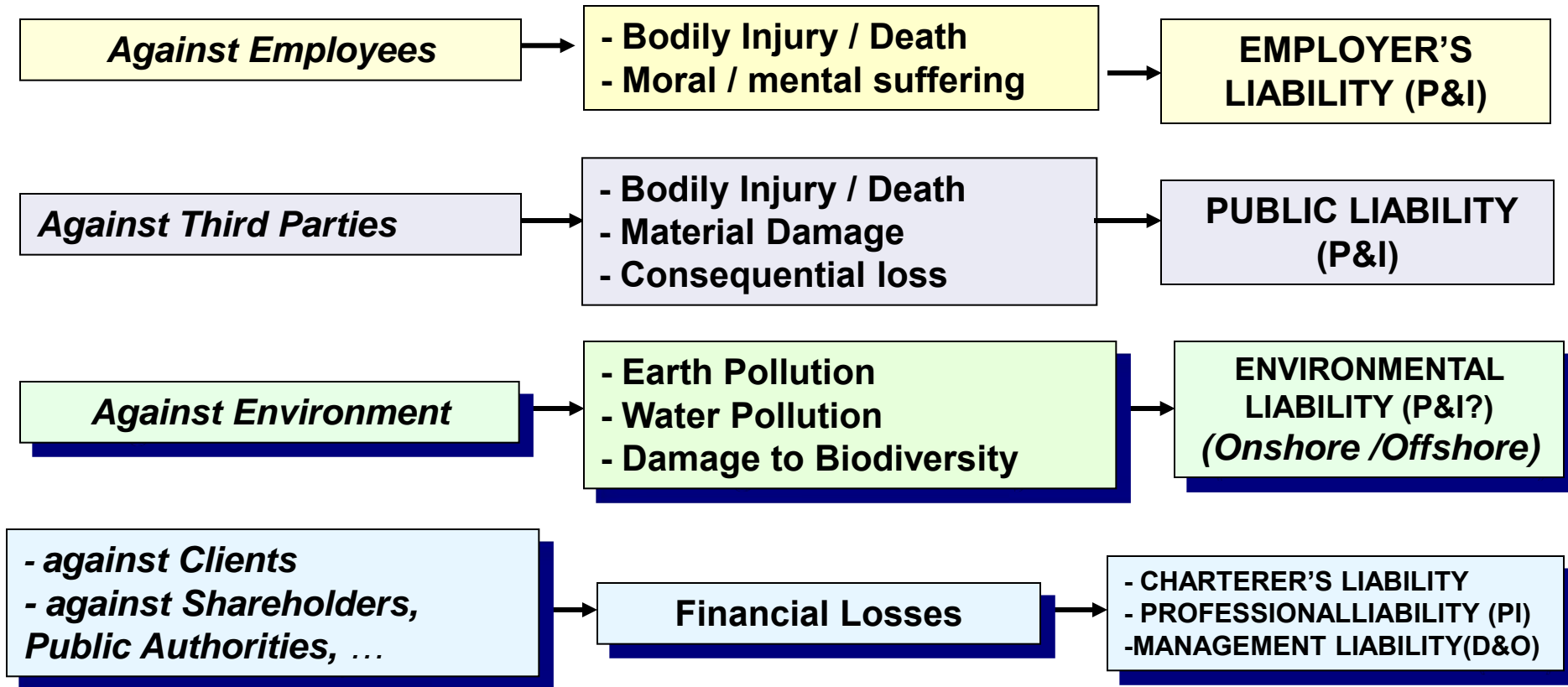
# Energy & Shipping Seminar- LIABILITY INSURANCE

## Parameters affecting Business



# Energy & Shipping Seminar- LIABILITY INSURANCE

## Business & Liabilities



# Energy & Shipping - LIABILITY INSURANCE

## Why is it necessary ?

- Globalization of economies & social evolution ...
- Tendency for more litigation & for higher Indemnity Limits
- Damaging conditions and human negligence (errors and/or omissions) cannot be completely eliminated
- Whether liable or not, the costs of eventual damages and subsequent economic losses, may be unbearable
- Money is ... rare and expensive!  
Insurance Policies are part of Credit application documents
- Energy & Shipping is subject to major risks & liabilities. In today's competitive - globalised business environment, needs appropriate legal & financial cover/ support

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## At what Indemnity Limits?

General easy answer can not be given.

To determine the optimal efficiency (benefit / cost) need:

- Comprehensive Risk Analysis of the Business Activity
- Knowledge of the development strategy
- Consideration of market conditions

### “Golden” Rule:

**Buy enough to feel safe as far as you are able to pay the insurance cost**

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## What Liability Insurance provides / covers?

- Legal support, Investigations carried out by the Insurance Company on behalf of the Insured
- Financial Indemnity for Bodily Injuries or/and Death of Third Parties (Employees, workers are not Third Parties)
- Financial Indemnity (direct and / or indirect consequential economic loss)
- Legal costs & Expenses in connection with claims that can not be settled extra-judicially
- Costs for reinstatement of damages to the Environment



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## Environment Liability (I)

**Penal Liability:** Conscious pollution is considered criminal act (concerns the Captain / Operator)

**Civil Liability:** Every business activity that may causes damage to the environment, bears the cost for the appropriate preventive measures & the expenses to limit the damage that may occur (concerns the shipping company (offshore) / operators (onshore activities))

### Basic issues

- State Authorities are obliged to react
- Civil Liability is considered “objective” (strict)
- Other entities than the shipping company may be implied in liabilities for eventual errors or omissions (Consultants - Services Providers, Directors & Officers of the shipping company ...)
- Necessity / Obligation not only for more security / prevention but also for adequate financial security (adequate Insurance cover?)

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## Environment Liability Insurance (II)

### What is covered

#### Consequences of Spills and threats of spills

- Clean-up operations cost
- Investigations costs
- Third party property damage
- Loss of revenues to Third Parties
- Legal Defense costs
- Civil penalties
- Criminal fines

### Who needs it

- Vessel Owners & Operators
- Cargo Owners

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## Charterer's Liability Insurance

**Who needs it:** Operators or commodity Traders who are chartering vessels to carry their own cargoes, need insurance

**What is covered:** Financial losses due for damages caused to the ship and/or the environment, during handling of the cargo

**Why is needed:** Charterers are exposed to liabilities that may reach or even exceed the value of the chartered vessel or the goods shipped.

The Ship-owner has insured his ship and the Cargo owner has insured his goods. Their Insurers in case of damages / claims brought to their policies will seek for recoveries.

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## Management Liability (D&O) Insurance (I)

**Why is needed:** Directors & Officers (jointly and severally liable), make decisions on behalf of the company. Are exposed when the company:

- ☐ Has subsidiaries with outside shareholders
- ☐ Is publicly quoted
- ☐ Is involved in joint ventures
- ☐ Raises additional capital or Arranges a private placement of debt or equity
- ☐ Undertakes major restructuring, acquires new entities
- ☐ Sells or Merges subsidiaries

### **What is covered:**

- Legal costs in defending allegations or lawsuits brought against Directors & Officers alleging **wrongful acts** (Breach of duty, Neglect, Error, Omission, Misstatement, Misleading statement, Breach of trust)
- Any awards granted to the claimants against the Directors & Officers, including out of court settlements

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## Management Liability (D&O) Insurance (II)

### Areas of greatest risk

- Private offerings and / or Public offerings
- Where foreign investors acquire equity in the company
- Where the company internationalizes its business (particularly in the USA or Canada) by:
  - Opening branches / subsidiaries overseas
  - Entering into strategic alliances with overseas companies
  - Establishing relationships with non-domestic clients,
- When the Company faces great losses from unexpected events, ...

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## Professional Indemnity Insurance

Covering allegations / claims arising from errors and/ or omissions  
in performing professional services in the maritime industry

### Main Professions concerned

Naval Architects & Consulting Engineers

Lawyers – Law Firms

Insurance Brokers

Ship Brokers

Marine Surveyors - Certification Firms

Loss Adjusters

Security Service Companies (Antipiracy)

Miscellaneous Marine Consultants

# Energy & Shipping - LIABILITY INSURANCE

## Liability Insurance - Advantages

- Reliable Legal & Financial protection in the contemporary even more competitive and litigious business environment
- Protects the Balance Sheet and the executives of the Company in any claims against them
- A “value” of the Firm's assets with a positive impact on its credibility image. Insurance Policies are part of Credit application documents
- Encourages entrepreneurial initiatives / getting risks
- Expresses reliability and responsibility of the Company to its Employees, to the State and the Society

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## Right of Subrogation - Recourse of Liabilities (case study)

### The environmental disaster (explosion) in Golf of Mexico

- BP (Owner of the Deepwater Horizon Oil Station) primarily liable, paid ~14b\$ of the total damage estimated at 20b\$!  
Raised claims against other entities, considered liable!
- HULLIBURTON (cement sealing of the well) sued by BP for paying part of the damage
- CAMERON (installed protection equipment) paid to BP 250m\$
- TRANSOCEAN operator of the oil rig asked to also contribute to the financial burden of the damage ...

**LIABILITY IS A COMPLEX ISSUE**

**Very often there is not a sole liable!**



# Energy & Shipping - LIABILITY INSURANCE

## Liability Insurance - Conditions to be successful

### ✓ Effectiveness of the Insurance Policy

- *Risk Analysis & Responsibilities*
- *No abusive exclusions or “hidden” cover restrictive clauses*
- *Effective indemnity procedures*

✓ **Rating of the Insurance Company**, *backed by first class reinsurance cover*

✓ **Reliability & quality services by the Insurance Broker**, *backed by adequate own professional liability cover*