



**The Association of
Average Adjusters of
The United States and
Canada**

Subject Specialist Member Level Examination – Syllabus

Course Title:

AMERICAN INSTITUTE HULL CLAUSES (JUNE 2, 1977)

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I. Introduction:

The learning objective of the course of study needed to prepare for this examination is to understand and interpret the American Institute Hull Clauses (June 2, 1977) (referred to hereinafter as the 'AIHC77') as they apply to particular risk and casualty circumstances, and to distinguish the principal characteristics of the clauses from other commonly-used policy wordings.

II. Syllabus:

A. The following list identifies the principal areas of study:

<u>Subject</u>	<u>Line#</u>	<u>Comments</u>
Betterment / New for Old	111	The AIHC77 states that general and particular average is payable without deduction, new for old. The wording's "new for old" provisions over-ride the MIA 1906 (section 69) reference to "customary deductions", but only when it would be unreasonable not to purchase a new part.
Bottom Treatment	113	The AIHC77 wording states that "No claim shall in any case be allowed in respect of scraping and painting the Vessel's bottom". For the purposes of this clause, in North American adjusting practice the vessel's "bottom" is defined as being the hull area below the turn of the bilge. The bulbous bow is not part of the vessel's "bottom". Where the shell plating is damaged, such costs are recoverable to a limited extent by virtue of the relevant Association of Average Adjusters' Rule of Practice. However, where only the bottom coating itself has been damaged, or where marine growth has accumulated on the bottom following a long period of damage repairs afloat, the exclusion applies.
Burden (Onus) of Proof	70 et seq.	As with all 'Named Perils' type policies, under the AIHC77 the onus of proving that a loss has been proximately caused by a peril insured against falls upon the Assured. Once the burden of proof is met, the onus shifts to the insurer who, if he wishes to deny coverage, is obliged to contest the Assured's allegation of cause on technical grounds, or to show that a policy exclusion applies to the loss.
Causation Issues: – Concurrent Causes – Progressive Damages	n/a	<u>Concurrent Causes:</u> Where there are two operative causes, the first covered by the policy and the second not, then provided that the second cause is not an excluded peril, the Assured can recover. However, where one of the causes is excluded, there is no recovery under the policy. <u>Progressive Damages:</u> The treatment of progressive damage under the AIHC77 follows the principle that damage falls upon the policy in which it was sustained.
Choice of Repair Facility / Tendering Requirements	95 et seq.	In order to substantiate the reasonableness of repair costs, the Assured is obliged to take tenders for any major repair project that may be subject of an insurance claim.

Choice of Repair Facility / Tendering Requirements (Cont'd)		By virtue of the 'Tender Clause' in the AIHC77 wording, the insurer has the right to make decisions as regards the choice of repair yard, although they seldom exercise this right, other than occasionally to insist that certain repair facility quotations be avoided or disregarded. Where this results in an increased time period required to obtain competitive repair quotations, the Assured is to be compensated at 30% p.a. of the vessel's hull value for the loss of time incurred when taking tenders at the insurer's insistence.
Claims Handling Procedures	n/a	Apart from the issues of claim notification, surveyor appointment and the tendering of repairs, the AIHC77 wording is silent as regards the process to be followed in the event of a claim. Typically, once the insurer has been notified, the appointed surveyor acts as the insurer's representative during the repair process, with the shipowner's insurance broker ensuring that prompt communication is maintained between the parties, and arranging the eventual collection of the claim, and the survey and adjusting costs. For smaller claims a surveyors' attendance may be dispensed with, and a 'desk-top survey conducted instead. Under the AIHC77, the appointment of Average Adjusters is left up to the shipowner, with smaller claims often processed by the insurer's own claims professionals.
Classification	197	The policy wording contains no requirement that the vessel be classed. That said, where the vessel is classed, any change, cancellation or withdrawal of the vessel's classification society entry automatically terminates the insurance policy, unless agreed to by the insurer in writing, or if the vessel is underway at the time of the change, the insurance will terminate upon the vessel's arrival at the nearest safe port.
Collision Liabilities	158-184	The Collision Clause of the AIHC77 wording covers 4/4ths collision liabilities arising from contact with other vessels, subject to the policy's exclusions. The Collision Clause acts as a supplementary contract to the AIHC77 policy wording, and claims recoverable under the Clause are limited to the insured value, plus costs, and are payable without deductible average in the event of and in addition to a Total Loss being paid under the Hull and Machinery insurance contract.

Common Expenses / Drydock Charges (the treatment of)	n/a	Under the AHIC77 wording when a vessel enters a repair facility to effect damage repairs and also carries out non-seaworthy related work for its own account, the cost of entering and leaving the dry dock, in addition to so much of the dock dues and other expenses incidental to the drydocking of the vessel as are necessary for the repair of the damage, are payable in full by the Hull and Machinery Underwriters. Owners' work in this context would include surveys carried out for classification purposes or any Owners' maintenance and repair works which are not immediately necessary to make the vessel seaworthy.
Constructive Total Loss	134 et seq.	See "Total Loss" below.
Crew's wages and maintenance costs	107	The AHIC77 allows the Assured shipowner to claim for crew wage and maintenance costs in particular and general average, but with particular average claims being restricted to crew wages & maintenance costs incurred solely* during the necessary removal of the vessel for average repairs or during trial trips to test average repairs, and then only while the vessel is underway.
Crew Bonus Payments	109	The AHIC77's crew wages and maintenance exclusion (see 'Crew's wages and maintenance costs' above) does not apply to bonus &/or overtime payments paid to the Master, officers and crew for carrying out/assisting with damage repairs, or for shifting the vessel for and engaged in tank cleaning either in port or at sea.
Deductible	29-35	A single 'each separate accident' deductible applies to the aggregate of all claims made under the AHIC77 wording, except claims of Actual or Constructive Total Loss, which are not subject to a deductible under any circumstances.
Deferred Repairs		The AHIC77 does not contains a clause relating to damages deferred for Owners' convenience, however Average Adjusting practice (based upon section 69 of the Marine Insurance Act 1906) dictates that the insurer is only liable for the reasonable cost of repairs, which is interpreted to mean the cost of repairs in evidence at the time of the first reasonable permanent repair opportunity following the loss.

Excluded Losses		The AIHC77 is a “named perils” policy in which certain listed perils are insured against. Any peril not listed in the policy is not covered &/or excluded.
Expediting Expenses		Expediting costs are allowable to the claim if they result in a savings in the cost of repairs, and then only up to the amount of such savings.
General Average	120	General Average is covered subject to the policy deductible and to a penalty for underinsurance, in the event of which the insurer is only liable for its proportionate part of the Agreed Value.
General Average – Vessel in Ballast Condition		Under US law and practice, ballast general averages are allowable.
Increased Value Insurances (Effect of)		When insuring subject to the AIHC’77 policy conditions, it is advisable to insure increased values and excess liabilities using the American Institute Increased Value and Excess Liabilities Clauses (November 3, 1977). Such Clauses are triggered when the damages insured by the underlying policy exceed 100% of the insured value.
Interest on Claims		Unlike with the Nordic Plan, no interest is payable on losses claimed under the AIHC77.
Notice of Loss	92-94	The AIHC77 requires that the insurers be notified “promptly” of an accident or occurrence which could give rise to a claim under the policy. Failure to give prompt notice, defined as soon as practicable, may result in denial of the entire claim in the event such failure proves prejudicial to the insurers.
Payment on Account	n/a	Although under the AIHC77 policy wording insurers are not obliged to make a Payment on Account, they are usually willing to do so, subject to the policy deductible and a safety margin deduction of 5-10% of the total amount being claimed.
Perils Insured Against / Terms of Cover	70-86	The Assured must always demonstrate that the damage to the vessel that is the subject of a claim was caused by a peril mentioned in the policy. All claims made under perils listed in the Additional Perils section of the policy are subject to the exercise of due diligence on the part of the vessel’s Owners or Managers.

Recoveries (from Third Parties)	31-32	The AIHC77 wording alludes to but does not provide clear guidance as to the treatment of recoveries, in the absence of which the deciding factors are the applicable law, and market practice. U.S. practice and Subrogation doctrine require that recoveries are pro-rated in the proportions that the claim and policy deductible bear to the gross claim.
Removal Expenses		The AIHC77 makes no mention of the cost of removing a vessel for insured damage repairs, and reference should be made to the Rules of Practice of the appropriate Association of Average Adjusters for the apportionment of allowable removal costs.
Safety / Statutory Requirements		There are consequences under the AIHC77 for unseaworthiness (see 'Unseaworthiness' further below), and most insurers will include a requirement that the vessel be "class maintained".
Salvage	120	Salvage is covered, subject to the policy deductible and to a penalty for underinsurance, in the event of which Underwriters are only liable for their proportionate part of the Agreed Value.
Subject Matter Insured	14	Aside from the Hull itself, the AIHC77 covers a long list of items such as launches, lifeboats, bunkers, stores, supplies, tackle, fittings and many kinds of equipment. However, there is no coverage assigned under the Clauses for equipment temporarily removed ashore, and such coverage must therefore be added via a specific clause to this effect.
Sue and Labour (Duty of Assured Clause)	144-157	The AIHC77 specifies the Assured's positive duty to incur reasonable costs to minimise loss to and safeguard the vessel from an insured peril, even in the event that a total loss has been admitted under the policy. The insurers bind themselves to pay for such costs up to the insured value of the vessel, subject to the insured value being equivalent to the sound value of the vessel at the time of the loss, with any underinsurance subject to a proportionate deduction.
Superintendence	n/a	The wording is silent on its coverage of the Assured's superintendence of damage repairs, and one must refer instead to jurisprudence and market practice, as codified by the Rules of the relevant Average Adjusting Association.

Survey Requirements	92-94	Under the AIHC77 insurers are entitled to appoint a surveyor to inspect and report upon the damages to an insured vessel. The surveyor's reports form the basis of the claim and should be distributed to all concerned.
Temporary Repairs		The AIHC77 are silent as regards temporary repairs and one must refer instead to market practice, as codified by the Rules of the relevant Association of Average Adjusters.
Total Loss (Actual or Constructive)	134 et seq	For there to be a CTL, the expense of salving, removing to a repair yard and repairing the vessel must exceed the vessel's insured value.
Trading Warranties	67	No specific policy provision covers trading warranties, and Underwriters will usually specify that the American Institute Trade Warranties (July 1, 1972) apply.
Underinsurance		If the vessel is found to be underinsured at the time of a loss, the Assured shipowner may become a co-insurer to the extent of such under-insurance for claims for Sue and Labour, General Average, and Salvage losses.
Unrepaired Damages caused by an Insured Peril	117-119	Under the AIHC77, the Assured may claim for the cost of unrepaired damage once the insurance period expires, except in the case of an Actual or Constructive Total Loss, whereupon no additional claim may be recovered for partial damages left unrepaired.
Unseaworthiness	n/a	The AIHC77 wording is silent as regards the effect of seaworthiness on insurance coverage, and so instead, the issue is governed by statute (e.g. section #39 of the Marine Insurance Act 1906) and jurisprudence, by virtue of which the insurer may void a claim on a Time policy where the loss was caused by unseaworthiness if that unseaworthiness was material to the loss, and if the shipowner was privy to such unseaworthy condition prior to the loss, and the insurer was not.

II. Syllabus (Cont'd)

B. Commonly-used American Institute / Hull Syndicate supplementary clauses:

- a. American Institute Increased Value and Excess Liability Clauses (November 3, 1977)
- b. American Hull Insurance Syndicate Liner Negligence Clause (June 2, 1977)
- c. American Hull Insurance Syndicate General Average Absorption Clause (January 1, 1979)
- d. American Hull Insurance Syndicate War, Strikes, and Related Exclusions Clause (October 2, 2008)
- e. American Hull Insurance Syndicate Ship to Ship Transfer Clause
- f. American Hull Insurance Syndicate Reactivation Clause

C. Commonly-used endorsements:

- a. Fully Insured for General Average, Salvage, Salvage Charges and Sue and Labor Expenses Clause.
- b. General Average Clause amending the York-Antwerp Rules to the 1974 version amended 1990, or to the 1994 version at the Assured's option.
- c. 'Follow the Lead' / Leader Clause.
- d. Leased and Passenger Equipment Clause.
- e. Pilots Non-Liability Clause.
- f. Affiliated Companies Clause.
- g. Parts Removed Clause.
- h. Helicopter Clause.
- i. Waiver of Subrogation Clause.

III. Specimen examination

The sample questions that comprise the specimen examination, together with other supporting documents and information, will be made available to any candidate demonstrating a serious interest in sitting the exam.

IV. Examination information

The method of examination assessment is 50 multiple choice questions, with 1 hour afforded for answering all questions. A multiple-choice question consists of a problem with 4 answer options, from which the candidate is asked to choose the correct response. Each question will have only one correct response, for which one mark will be awarded.

The American Institute Hull Clauses (June 2, 1977) may be applied to risks insured subject to the laws and practices of England and Wales, the United States of America, Canada or other jurisdictions. Accordingly, the questions will specify which law is to apply. Legislation promulgated and case law decided less than 6 months prior to the date of the exam, will not be examined

Aside from a non-programmable, silent, battery or solar powered calculator, no electronic equipment may be brought into the examination room.

Paper for notes will be provided to candidates upon request, but they will not be permitted to remove any papers from the examination room.

V. Recommended materials and reading

- Rules of Practice of the Association of Average Adjusters of the United States and Canada - October 2016.
- Rules of Practice of the Association of Average Adjusters - May 2022
- Leslie J. Buglass Marine Insurance and General Average in the United States (3rd edition, 1991 - ISBN 9781507305690, widely available for purchase as an eBook)
- Templeman, Marine Insurance (6th edition, 1986)
- Arnould's Law of Marine Insurance and Average (20th edition, 2021)
- Goodacre, Marine Insurance Claims (3rd edition, 1996)
- UK statutes: Marine Insurance Act 1906, Insurance Act 2015
- The Nordic Plan 2013 (ver.2023)
- The Institute Time Clause (01/10/83)
- The International Hull Clauses (01/11/03)