

## 外銷產品責任保險市場之研討

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*V&C Risk Services Taiwan Ltd.*  
9/22/2009

## Speakers Introduction

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### **Management Team members of V&C:**

#### ■ ***Vincent Cheng | Managing Director***

- ◆ Master of Actuarial Science, Georgia State Univ. USA  
BA, Business Mathematics, Soochow University
- ◆ Experience with all lines of General and Business Insurance  
(CGL, Pharma. Construction, Banking....)
- ◆ Develop PLI and Pharma Programs, with emphasis on  
service for claims work, including direct work and  
coordination and cost control for large complex claims  
Expertise in US legal issues and Risk Management.



## Speakers Introduction

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### **Management Team members of V&C:**

#### ■ **Marie Nolan | Vice President**

- ◆ MEd –International Education, Framingham, USA
- ◆ Over 12 years experience in Taiwan Retail and Customer Service Industries. Focus on New business development, support services network development and Risk Management
- ◆ Development of Products Liability claims services, including strengthening of International claims support network, and management of complex claims

## What is Products Liability?

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- (a) The Philosophy of Product Liability
- (b) The Environment of Product Liability



*Present by Vincent Cheng.*

□ Kids with Tricycle.



□ Arab and Treadmill.



□ Trampoline (1), (2).



## The Misunderstanding of PLI policy wordings

- The insured's perception of PLI policy  
----- Bad Faith.



## Insuring Agreement

### --Additional Insured?!

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- A claim by a person or organization seeking damages will be deemed to have been made at the earlier of the following times:
  - When notice of such claim is received and recorded by any insured or by us, whichever comes first; or
  - When we make settlement in accordance with paragraphs 1.a. above.
- All Claims for damages because of “bodily injury” or “property damage” to the same person, including damages claimed by any person or organization for care, loss of services or death resulting at any time from the “bodily injury” will be deemed to have been made at the time the first of those claims is made against any insured.



## VENDORS – BROAD FORM

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- The insurance with respect to the “Vendor” does not apply to:
  - any express warranty unauthorized by the Named Insured;
  - “Bodily Injury” or “Property Damage arising out of:
    - any physical or chemical change in the form of the product made intentionally by the “Vendor”,
    - repacking, unless unpacked solely for the purpose of inspection, demonstration, testing or the substitution of parts under instruction from the manufacturer and then repacked in the original container,
    - demonstration, installation, servicing or repair operation, except such operations performed at the “Vendor’s” premises in connection with the sale of the product, or
  - products which after distribution or sale by the Named Insured have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the “Vendor”.

## The Current PLI Markets

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*Present by Vincent Cheng.*



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- 6 years cycles
  - The threat / benefit from China market
  - Foreign market

# US and EU Legal System and Claims Handling – Overview

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*Present by Marie Nolan*



## Legal System Introduction

- US Legal System
  - Influences
  - Processes
- EU Legal System
  - Influences
  - Processes



## US Legal System Influences

- History
- Commercial Trends
- Consumer Protection
- Adversarial System



## US Legal System Processes

- State and Federal Systems
- Procedural Rules
- Steps to Claim
- Steps to Suit



## EU Legal System Influences

- History
- Commercial Trends
- Consumer Protection
- Prosecutorial System



## EU Legal System Processes

- National Systems
- Procedural Rules
- Steps to a Claim
- Steps to a Suit





## Major Steps of a Claim

- ☐ Incident / Occurrence
- ☐ Injury or Damage
- ☐ Notice of Claim
- ☐ Investigation
- ☐ Resolution or Escalation



## Major Steps of a Lawsuit

- ☐ Incident / Occurrence
- ☐ Injury or Damage
- ☐ Notice or Service of Suit
- ☐ Discovery Period



## Major Steps of a Lawsuit (2)

- Trial Preparation
- Mediation
- Trial



## Settlement / Defense Issues

- Jury / Non-Jury Influences
- Legal Costs
- Business Relationships
- Contracts, Indemnity Agreements, etc
- Protection of Product, Brand, etc



## Claims Handling Case Notes

- Examples of Contrasting Points
  - And how they affected a claim
- EU Rules and Laws are Evolving
  - Changes will come
- US Laws are Adjusting to Reality
  - Continually change



## Points of Confusion

- |                    |                               |
|--------------------|-------------------------------|
| □ One Payment      | □ Multiple Payments           |
| □ Health Insurance | □ National, Private Insurance |
| □ Legal Costs      | □ Settlement Plus Costs       |
| □ Strict Liability | □ Should Show Defect          |



## Points of Confusion (2)

- ☐ Chain of Commerce
- ☐ First-Entry Point
- ☐ Company Liability
- ☐ Personal Liability
- ☐ Subrogation
- ☐ Local Handling



## Case 1

- ☐ One Payment –  
Multiple Payments

Germany – Interim Payments

Medical Payments



## Case 2

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□ No Health Insurance –

National and or Private Insurance

Holland – National Gov't oversees the  
recovery and future status of  
the claimant

USA – is completely the opposite – inflating claim/suit costs



## Case 3

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□ Strict Liability –

Should Show Defect

Belgium – Expert reports presented to  
Judge. Hard to rebut.



## Case 4

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- Chain of Commerce –  
Entry Point

Italy – the company that Imports the  
Item in to the EU is Final Point  
for Suits and Claims Handling



## Case 5

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- Company Liability –  
Personal Liability  
Criminal Liability

Germany – Importer can be jailed  
for importing dangerous  
goods or item



## Case 6

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- Settlement Costs –  
Plus Legal Costs

Spain – Settlement is made with  
claimant, legal fees are then  
paid to the claimant lawyer



## Case 7

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- Subrogation –  
Local Handling

USA – Manufacturer or Insurer may be  
Notified Before or During claim work

EU – Import point may not notify until  
the claim or suit is closed



## Other Points to Note:

- Need Local Expertise
  - Legal Advice, Opinions
  - Investigation / Adjuster / Mediator
- Varied Cultures, Expectations
  - Need local understanding
  - Holidays etc



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□ Any Questions





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Thank you for your interest!

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