

DECEMBER 28, 2001

CIRCULAR NO. 15/01

TO MEMBERS OF THE ASSOCIATION

Dear Member:

RULE CHANGES FOR THE 2002 POLICY YEAR: EXCLUSION OF ACTS OF TERRORISM

Reference is made to Circular No. 14/01 of December 17, 2001 notifying Members of various changes to the Club's Rules for the forthcoming policy year.

As Members will be aware, the insurability of certain exposures under the new climate of war and terrorist risk following the appalling events of September 11, 2001 has been the subject of debate both within the International Group of P&I Clubs and, indeed, within the marine insurance market at large. Specifically, the Club tendered general notice of cancellation of its excess war risks cover by Circular No. 12/01 of October 16, 2001, but subsequently reinstated the cover on a more clearly defined basis as of October 24, 2001.

In the interim, a clear consensus has emerged to the effect that the exclusion of war risks from the catalog of ordinary marine perils, including those covered by P&I Clubs, should explicitly extend to acts of terrorism. Accordingly, the International Group, in consultation with its reinsuring underwriters in the commercial market, is taking steps to amend the Pooling Agreement for 2002 so as to exclude claims arising from such acts.

This will involve a concomitant change to the Rules of all Group Clubs. The exclusion of war and related risks in the case of the American Club is currently contained in Rule 3, Section 2. In order to reflect the changes being made to the Pooling Agreement for the forthcoming policy year, the present wording of Rule 3, Section 2 will be replaced by the following language as of February 20, 2002.

"RULE 3 – RISKS EXCLUDED

Section 2

Notwithstanding anything to the contrary contained in these Rules, there shall be no right of recovery from the Association in respect of any liabilities, costs or expenses, whether or not a contributory cause of their being incurred was any neglect on the part of the Member or the Member's servants or agents, when the incident giving rise to the liability, cost or expense was caused by the following:

- 1 War, civil war, revolution, rebellion, insurrection or civil strife arising therefrom, or any hostile act by or against a belligerent power or any act of terrorism;***
- 2 Capture, seizure, arrest, restraint or detainment (barratry and piracy excepted) and the consequences thereof or any attempt thereat;***
- 3 Mines, torpedoes, bombs, rockets, shells, explosives or similar weapons of war, provided that this exclusion shall not apply to any liabilities, costs or expenses which arise solely by reason of***

- a ***the transport of any such weapons whether on board the insured vessel or not, or***
- b ***the use of any such weapons, either as a result of government order or through compliance with a written direction given by the Association where the reason for such use was the avoidance or mitigation of liabilities, costs or expenses which would otherwise have fallen within the cover given by the Association;***

AND PROVIDED ALWAYS THAT:

The Directors may resolve that special cover be provided to Members against any or all of the risks set out in Rule 2 of these Rules, notwithstanding that the liabilities, costs or expenses arising from such risks would otherwise be excluded by this Rule 3, Section 2. Such special cover where provided may be limited to such sum or sums and be subject to such terms and conditions as the Directors may from time to time in their sole discretion determine.

In the event of any dispute as to whether or not any act constitutes an act of terrorism, the decision of the Directors shall be final.”

Members are asked to note their records accordingly and can expect to see the above revision contained in the new By-laws and Rules for 2002 when they become available for distribution in due course.

As has been the case hitherto, it is hoped that Group Clubs will continue to be able to provide excess cover for the P&I risks excluded at a primary level by the terms of the above wording. To this end, the International Group's brokers are in consultation with reinsurers to negotiate the continuation of the facility available to date, including acts of terrorism. These risks will also hopefully remain part of the primary cover offered by specialist war risk underwriters into 2002 and beyond.

In addition, the Club's Standard Excess War Risk Insurance endorsement set out in the Appendix to the Rules will also require amendment to reflect the new circumstances applying after February 20, 2002.

A further Circular will be issued to Members on this specific subject in due course. If, in the meantime, any Member has any questions in regard to the foregoing, or generally, the Managers will, as always, be pleased to respond.

Yours faithfully,

Joseph E.M. Hughes, Chairman & CEO
Shipowners Claims Bureau, Inc., Managers for
THE AMERICAN CLUB