

CIRCULAR

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FEBRUARY 17, 2005

CIRCULAR NO. 5/05

TO MEMBERS OF THE ASSOCIATION

Dear Member:

WAR AND TERRORISM RISKS – 2005 POLICY YEAR

For the 2005 policy year, cover for war and terrorism risks will remain available from the Club in accordance with the proviso to Rule 3.1.1 of the Rules of Class I.

This cover will apply in excess of an insured vessel's proper hull value and will be increased for 2005 from \$400 million to \$500 million.

The addendum to this Circular sets out the terms of this excess cover which will be applicable to all vessels insured on fully mutual conditions in accordance with the Rules of Class I and into the cover of which these terms will be deemed to be incorporated.

Should any Member have any questions as to the intention or the extent of the cover, the Managers will be pleased to respond.

Yours faithfully,


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

**ADDENDUM TO CIRCULAR 5/05
DATED FEBRUARY 17, 2005**

**WAR AND TERRORISM RISKS
2005 POLICY YEAR
EXCESS COVER**

It is hereby agreed in accordance with the provisions of Class I, Rule 3, Section 1.1 that cover is extended to include such liabilities, costs and expenses as would be covered under the Rules of the Association but for the exclusion of War and Terrorism Risks as set out in the said Rule. This extended Protection & Indemnity War Risks cover is subject to a limit in respect of such liabilities, costs and expenses of USD500,000,000 any one insured vessel any one event in excess of any amount recoverable under the insured vessel's Hull and Machinery and War Risks Policies. (See clause 4 below).

This cover is to pay claims in excess of amounts recoverable under the insured vessel's or crew war risk P&I policies, subject to a minimum deductible of the proper value of the insured vessel or USD100,000,000 whichever is the less any one event. Provided that this condition shall not apply where the entry of the insured vessel is solely in the name of or on behalf of a charterer other than a charterer by demise or bareboat charterer and provided that the Board may authorize the payment, in whole or in part, of any claim or part of a claim which falls within such excess, if in its discretion and without having to give any reasons for its decision it decides that the Member should recover from the Association.

- 1) This cover for War Risks under Class I, Rule 3, Section 1.1 shall be subject to the following:

**CHEMICAL, BIOLOGICAL, BIO-CHEMICAL, ELECTROMAGNETIC WEAPONS AND
COMPUTER VIRUS EXCLUSION CLAUSE:**

This clause shall be paramount and shall override anything contained in this insurance inconsistent therewith, and shall be interpreted in accordance with the Association's Circular No. 7/03 of April 1, 2003, a copy of which is attached for ready reference.

In no case shall this insurance cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from:

- a) any chemical, biological, bio-chemical or electromagnetic weapon;
 - b) the use or operation, as means for inflicting harm, of any computer virus.
- 2) At any time or times before, or at the commencement of, or during the currency of any Policy Year, the Association may in its discretion determine that any ports, places, countries, zones or areas (whether of land or sea) be excluded from the insurance provided by this cover for War and Terrorism Risks ("Prohibited Areas"). Save as otherwise provided by the Association this cover shall cease in respect of Prohibited Areas at midnight on the seventh day following the issue of notice of such determination in accordance with Class I, Rule 3, Section 1.1. Unless and to the extent that the Board in its discretion otherwise decides there shall be no recovery from the Association under this cover in respect of any claim howsoever arising out of any event, accident or occurrence within the Prohibited Areas after such date.

- 3) Notwithstanding any other term or condition of this insurance, this cover for War and Terrorism Risks may be cancelled by the Association giving seven days' notice (such cancellation becoming effective on the expiry of seven days from midnight of the day on which notice of cancellation is issued by the Association) and the Association may at any time after the issue of notice of such cancellation resolve to reinstate this cover on such terms and conditions and subject to such limit as the Association in its discretion may determine.
- 4) When either a demise, time, voyage, space or slot charterer and/or the owner of the insured vessel are separately insured for losses, liabilities, or the costs and expenses incidental thereto covered under Class I, Rule 3, Section 1.1 of the Association and/or the equivalent Rule of any other association which participates in the Pooling Agreement and General Excess Loss Reinsurance Contract, the aggregate of claims in respect of such losses, liabilities, or the costs and expenses incidental thereto covered under Class I, Rule 3, Section 1.1 of the Association and/or the equivalent Rule of such other association(s), shall be limited to USD500,000,000 any one vessel any one incident or occurrence. If such claims exceed this limit, the liability of the Association in respect of each Certificate of Entry shall be limited to that proportion of the limit that claims recoverable from the Association and from such other association(s), if any.

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APRIL 1, 2003

CIRCULAR NO. 7/03

TO MEMBERS OF THE ASSOCIATION

Dear Member:

WAR AND TERRORIST RISKS

Reference is made to Circulars 2/03 and 5/03 of January 30 and February 11, 2003 respectively. The purpose of this Circular is to revisit certain issues raised in the latter document in light of recent clarifications received from the International Group of P&I Clubs' reinsuring underwriters.

Chemical, Bio-chemical, Electromagnetic Weapons and Computer Virus Exclusion Clause

This clause is new for the 2003 policy year. It has been introduced as a result of the implementation of similar clauses in almost all reinsurance contracts to avoid undue aggregation of risk.

As earlier advised in Circular No. 5/03, the clause reads as follows:

This clause shall be paramount and shall override anything contained in this insurance inconsistent therewith:

1. *In no case shall this insurance cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from*
 - 1.1 *any chemical, bio-chemical or electromagnetic weapon.*
 - 1.2 *the use or operation, as a means for inflicting harm, of any computer virus.*

Problems have arisen with the interpretation of this clause. It is potentially much too wide. Following discussions between the International Group, its brokers and reinsurers, the brokers have issued the following statement with the approval of reinsuring underwriters:

The Chemical etc., Exclusion Clause (MM Clause No. 2249(a)) was introduced to this placement for the first time at February 20, 2003.

It is our understanding that the phrase 'any chemical, bio-chemical...weapon' was intended by underwriters to exclude neurological or viral agents such as sarin, mustard gas, anthrax, smallpox etc. It is not intended to refer to the use of a vessel or its cargo as a means of inflicting harm, unless such cargo is itself a chemical or biochemical weapon within the scope of the clause. We understand the phrase 'electromagnetic weapon' to refer to highly sophisticated devices designed to disable computer software, and not to methods of detonation or attachment of explosives.

The exclusion of 'the use or operation, as a means for inflicting harm, of any computer virus' is relevant in the context of this policy only if it is used as an act of war or terrorism.

P.T.O.

The International Group has submitted a revised wording for the clause which incorporates these principles and it is hoped that the language of the clause for 2004 will be clearer.

Excess point

The wording of the excess point for the International Group of P&I Clubs' reinsurance contracts has been changed for 2003 policy and now reads as follows:

This policy to pay claims excess of amounts recoverable under vessels' or crew war risks P&I policies subject to a minimum excess of the proper value of the entered ship or \$100,000,000 whichever is the less (applicable to owners' entries and not to charterers' entries), and further subject to a minimum excess of \$50,000 any one event.

Once again, the Group's brokers and reinsurers are concerned that the intent of this clause should be clearly understood and, following discussions with International Group representatives, the brokers have issued the following clarification with the approval of reinsuring underwriters:

It is therefore our understanding that, in respect of owners' entries, this policy will respond excess of underlying insurances with a limit of at least the proper value of a vessel.

In the event that a vessel is not so insured, this policy will respond as if an underlying policy with a limit up to the proper value were in place, except that for a vessel with a proper value of more than \$100 million, the deemed underlying excess shall be \$100 million.

Further, we understand that this policy will be in excess of all other policies placed by owners for vessels' or crew war risks P&I. We do not believe that corporate general liability umbrellas placed on behalf of organizations of which shipping forms a part are underlying policies hereon (even if they might include some war and terrorism cover).

We believe reinsurers understand that Club boards may exercise their discretion as to what constitutes the proper value of an entered vessel, but the payment of claims under this policy remains subject to the criteria above and the Claims Cooperation Clause.

Members are asked to note that they are deemed to have underlying cover with conditions equivalent to the Club's cover given under the proviso to Rule 3.1.1 of the Rules of Class I (War Risks P&I) equal to at least the proper value of the ship. Furthermore, this cover is excess of any cover which a Member has actually taken out which covers the risk, unless the cover is a corporate general liability umbrella cover. A corporate general liability cover is difficult to define and it is important that Members who consider they have such cover should inform the Managers so that the position can be clarified. Members are recommended to seek clarifications similar to those set out above from the underwriters of their underlying War Risks cover.

In all cases, and as usual, the Managers will be pleased to help in answering any specific inquiries in regard to the foregoing, or any other general questions which Members may have.

Yours faithfully,



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