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**New York, November 22, 2002**

**IMPORTANT NOTICE**

**US TERRORISM RISK INSURANCE ACT**

**Members are urged to give their immediate attention to Circular No. 23/02 of today's date.**

**The above Act is likely to come into effect on November 28, 2002 and could have very serious consequences for all P&I Clubs and their Members.**

In particular, the Act compels the Club to provide you with insurance against a terrorist attack (as defined) up to the limit of ordinary P&I Club cover. This is a risk that is un-reinsurable and, even with the federal assistance offered, one that could bankrupt your, or indeed any, Club. Clearly, the premium for such a risk will inevitably be very high.

When the Act comes into effect, the Club will be obliged to offer you the cover at whatever premium it deems appropriate, though you are not, of course, obliged to accept it. This premium will probably amount to several million dollars per vessel.

Accordingly, on or around November 28, 2002, you will receive a notice to pay an additional premium if you wish to take advantage of the additional cover provided under the Act. **If you decline to pay this additional premium by the due date your ordinary P&I cover and the existing special War Risks P&I cover in respect of terrorism will continue as at present.** You will not then be liable for the additional premium requested.

The circumstances underlying this position are described in greater detail in the attached Circular No. 23/02.

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



**NOVEMBER 22, 2002**

**CIRCULAR NO. 23/02**

**TO MEMBERS OF THE ASSOCIATION**

**Dear Member:**

### **US TERRORISM RISK INSURANCE ACT**

The United States is introducing legislation the intention of which is to ensure that insurance companies extend to their clients cover for terrorist acts in the United States on the same basis as that which existed prior to September 11, 2001. Under this legislation the federal government will provide an indemnity of up to 90% of incurred losses.

Unfortunately, the way in which the legislation has been drafted requires insurers to reinstate the level of terrorist cover available prior to September 11, 2001 by providing that insurers must offer terrorist cover to the same extent and limit as is offered for non-terrorist risks.

In the case of P&I Clubs, cover is currently provided for war risks (including terrorism) up to a limit of \$200 million in excess of a vessel's proper value which is covered as part of the hull and machinery policy. For non-war risks the limits are significantly higher. Circumstances therefore emerge whereby the legislation will require P&I Clubs to provide cover in respect of terrorism up to these higher limits, albeit with some degree of indemnity from the US government. This risk would not be poolable nor would it be covered by reinsurance.

The legislation has been agreed by both the House of Representatives and the Senate and will come into immediate effect as soon as it has been signed by the President, probably on November 28, 2002. The legislation is mandatory in effect. This means that each Club will be obliged from that date to provide cover in respect of terrorist risks up to the same limit as the general P&I cover.

The legislation was principally intended to aid property insurance in the United States and was not intended to have this extreme effect on the marine market which has always operated parallel cover in respect on war risks and non-war risks. It is hoped, therefore, that when regulations are prepared to give detailed implementation to the statute, it will be possible to provide for the special circumstances of the Clubs. In the meantime, however, we are advised by US lawyers that it will be necessary to use the provisions of the Act itself to avoid its most draconian effects for Clubs and their Members.

The Act provides that exclusions can be reinstated either:

- if the insurer has received a written statement from the insured that affirmatively authorizes such reinstatement; or
- if the insured fails to pay an increased payment charged by the insurer for providing such terrorism coverage.

It is hoped that the Clubs' position can be clarified under the proposed regulations in advance of the next renewal. However, if this is not possible, it is suggested that Members will be able to provide affirmative authority to reinstate the terrorism exclusion as part of the renewal process.

In the meantime, it is suggested that, for the balance of the current policy year, Clubs have no alternative but to charge an additional premium in respect of this period unless the Member affirms in writing that he authorizes the exclusion to be reinstated. However, given that no pooling and no market protection will be available, it can be confidently predicted that the premium charged will be very substantial since it will have to reflect each Club's exposure to the risk of terrorism up to a limit which is only attained in respect of traditional P&I risks by sharing with other Clubs and buying substantial reinsurance.

It is anticipated that, in these circumstances, most Members will express themselves content with their existing war risks cover of \$200 million in excess of the vessel's proper value. Members may express this preference either by affirming in writing or by not paying the requested premium within the 30-day period allowed.

Accordingly, as soon as the Bill is signed into law, probably on November 28, 2002, all Clubs will issue a notice requiring all Members to pay a substantial additional premium as a consequence of this US legislation.

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