

## **6. EXCESS WAR RISKS P&I CLAUSE**

*(20th February 2017)*

In accordance with the provisions of Rule 15.3 of the Association's Rules of Class 5, it is hereby agreed that special cover shall be provided to Assureds against war risks, including acts of terrorism as defined within the US Terrorism Risk Insurance Act of 2002, which are otherwise excluded from cover by virtue of the provisions of Rule 15.1, and which cover shall, unless otherwise agreed in writing, be subject to the Rules and to all other terms and conditions of Assureds' terms of entry in the Association and to the following terms and conditions.

- (1) The risks covered shall be those set out in Rule 9 of the Association's Rules in accordance with each individual Assured's terms of entry as set out in the relevant Certificate of Entry and any Endorsement thereto, save that this cover shall not provide insurance for any losses, liabilities, costs or expenses if the provision of such insurance would create a liability for the Assured under the Tanker Oil Pollution Indemnification Agreement 2006 (TOPIA 2006), as amended, to contribute to the IOPC Supplementary Fund.
- (2) This special cover shall be subject to an excess of either:
  - (a) the "proper value" of the entered Ship as defined in Rule 12, but which shall be deemed not to exceed US\$100 million, or
  - (b) the amount recoverable in respect of the claim under any other policy or policies of insurance, whether of war risks or otherwise,whichever shall be the greater, save that such excess shall not apply where the entry of the Ship is solely in the name of or on behalf of a charterer, other than a charterer by demise or bareboat charterer, provided that the Committee may authorise the payment, in whole or in part, of any claim or part of a claim which falls within such excess if, in its sole discretion and without having to give any reasons for its decision, the Committee decides that the Assured should recover from the Association.
- (3) Subject to (8), the limit applying to this special cover shall be US\$500 million each entered Ship, any one accident, or such limit as may be applicable to the claim under the Assured's individual terms and conditions of entry, whichever shall be the lesser.
- (4) All perils included in the special cover shall be subject to the following:

Chemical, Biological, Bio-chemical, Electromagnetic Weapons and Computer Virus Exclusion Clause (MM Clause No.3039) (A), Memorandum of Understanding of March 2003 between the International Group and reinsuring underwriters concerning the interpretation thereof (B), and Nuclear Exclusions Clause (C):

  - (A) In no case shall this insurance cover loss, damage, liability or expenses directly or indirectly caused by or contributed to by or arising from:
    - (i) any chemical, biological, bio-chemical or electromagnetic weapon.
    - (ii) the use or operation, as a means for inflicting harm, of any computer virus.
    - (iii) Clause (A) shall not operate to exclude losses (which would otherwise be covered under the terms of this policy) arising from the use of any computer, computer system or computer software programme or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.
  - (B) 'any chemical, biological, bio-chemical or electromagnetic weapon' shall include neurological or viral agents, such as sarin, mustard gas, anthrax and smallpox, but exclude explosives and/or the methods of their detonation or attachment and/or the use of a Ship or her cargo as a means of inflicting harm, unless such cargo is itself a chemical, biological or bio-chemical weapon within the scope of the clause, and 'the use or operation, as a means for inflicting harm, of any computer virus' shall only be relevant in the context of this insurance if it is used as an act of war or terrorism.
  - (C) Nuclear Exclusions Clause:

In no case shall this insurance cover liabilities, losses, costs or expenses (irrespective of whether a contributory cause of the same being incurred was any neglect on the part of the Assured or his servants or agents) when the loss or damage, injury, illness or death or other accident in respect of which such liabilities arise or loss, costs or

expenses are incurred was directly or indirectly caused by or contributed to by or arise from:

- (a) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;
  - (b) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof;
  - (c) any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;
  - (d) the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter,  
other than liabilities, costs and expenses arising out of carriage of "excepted matter" (as defined in the Nuclear Installations Act 1965 of the United Kingdom or any regulations made there-under) as cargo in an entered Ship.
- (5) At any time or times before, or at the commencement of, or during the currency of any Policy Year, the Association may in its sole discretion determine that any ports, places, countries, zones or areas (whether of land or sea) be excluded from the insurance provided by this P&I war risks cover. Save as otherwise determined by the Committee, this P&I war risks cover shall cease in respect of such ports, places, countries, zones or areas at midnight on the seventh day following the issue to the Assured(s) of notice of such determination. Unless and to the extent that the Committee in its sole discretion otherwise decides, there shall be no recovery from the Association under this P&I war risks cover in respect of any claim howsoever arising out of any event, accident or occurrence within the said area after such date.
- (6) Whether or not notice has been given under clause (5) above, this P&I war risks cover shall terminate automatically:
- (i) upon the outbreak of war (whether there be a declaration of war or not) between any of the following countries:  
United Kingdom, United States of America, France, the Russian Federation, the People's Republic of China and this insurance excludes loss, damage, liability or expense arising from such outbreak of war.
  - (ii) in respect of any Ship, in connection with which cover is granted hereunder, in the event of such Ship being requisitioned either for title or use and this insurance excludes loss, damage, liability or expense arising from such requisition.
- (7) Notwithstanding any other term or condition of this insurance, the Association may in its sole discretion cancel this special cover giving 7 days' notice to the Assured(s) (such cancellation becoming effective on the expiry of 7 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 special cover on such terms and conditions and subject to such limit as the Association in its sole discretion may determine.
- (8) When either a demise, time, voyage, space or slot charterer and/or the owner of an entered Ship are separately insured for losses, liabilities, or the costs and expenses incidental thereto covered under Rule 9 of the Association and/or the equivalent Rule of any other association which participates in the Pooling Agreement and General Excess Loss Reinsurance Contract pursuant to the provision of this special cover, the aggregate of claims in respect of such losses, liabilities, or the costs and expenses incidental thereto covered under Rule 9 of the Association and/or the equivalent Rule of such other association shall be limited to US\$500 million any one Ship 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 under that Certificate bear to the aggregate of the said claims recoverable from the Association and from such other association(s), if any.