



# THE LONDON

STEAM-SHIP OWNERS'  
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## TO ALL MEMBERS

Dear Sirs

### US Terrorist Risk Insurance Bill 2002

Save in respect of a layer referred to below, the Association, in common with other P&I Clubs, excluded terrorism cover for the 2002 policy year. The previously existing War Risks Rule already excluded most claims that might conceivably arise from terrorist attacks, but the new exclusion was designed to make the position absolutely clear.

The Association has recently become aware that the United States is in the process of introducing legislation rendering such an exclusion void. The legislation has been agreed by both the House of Representatives and the Senate, and will come into effect as soon as it has been signed by the President, probably on 28 November 2002.

Unfortunately, the way in which the legislation has been drafted results in insurers being required to provide terrorist cover to the same extent and limit as is offered for non-terrorist risks. In the Association's case (and in the cases of other P&I Clubs) cover is currently provided for war risks (including terrorism) up to a limit of \$200 million in excess of the ship's proper hull and machinery value, with most if not all Members insuring that value in other markets. For non war and terrorism risks, the limits are significantly higher, being \$1 billion for pollution risks and approximately \$4.25 billion for other P&I risks. The Association is therefore faced with an unavoidable requirement to provide P&I cover in respect of terrorism up to these very high limits.

The US Government will provide reinsurance of up to 90% of incurred losses, but the terms of that reinsurance are not sufficiently well defined. The Association is unable to obtain any other reinsurance of the very high level of retained risk and that is clearly unacceptable.

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

The Act permits exclusions to 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.

If the Association's position cannot be clarified under the proposed regulations in advance of the next renewal, the Association will need then to require Members to provide affirmative authority to reinstate the terrorism exclusion as part of the renewal process.

In the meantime and because the legislation will have immediate effect, the Association has no alternative but to charge each Member an additional premium for the balance of this policy year, unless the Member affirms in writing that they authorise the exclusion to be reinstated. Given that neither pooling nor market protection will be available, the premium charged will need to be very substantial indeed, since it will have to reflect exposure to a \$4.25 billion terrorist risk P&I claim. It is understood that in these circumstances most Members will express themselves content with their existing war risks cover of \$200 million 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 time allowed.

Members should therefore expect that as soon as the Bill is signed into law, they will receive from the Association a notice requiring them to pay a substantial additional premium as a consequence of the US Terrorism Insurance legislation.

Yours faithfully  
A BILBROUGH & CO LTD  
(MANAGERS)