

23 February 2011

TO ALL MEMBERS

Dear Sirs

US Vessel Response Plans - Salvage and Marine Firefighting Requirements Final Rule - 31 December 2008

Deadline for implementation - 22 February 2011 - Further Update

Salvage Agreements

This Circular applies to owners of tank vessels carrying oil calling at US ports.

We refer to Circular No. 5:412 of 25 August 2010 concerning the above, which provided a list of salvor contracts/ funding agreements which had been reviewed by the International Group, and to the update provided in Circular No. 5:417 of 15 October 2010.

Since then, T&T Bisso have introduced an Addendum to their contract.

The T&T Bisso Addendum, with footer "*T&T Bisso SMFF Agreement Addendum February 2011*", enables the owner to exercise an option to switch to Lloyd's Open Form (LOF) some time after the commencement of operations. Whilst it has been held to conform with the International Group salvage guidelines, Members' attention is drawn to clause 5 of this Addendum. This clause deals with the owner's authority to bind cargo to the LOF and requires owners to indemnify T&T Bisso for any losses, damages or costs which they may incur as a result of any breach of such warranty of authority following any claim by any of the salvaged property that they are not bound by the LOF. Whilst it is acknowledged that Article 6 of the Salvage Convention gives the master/owner of the vessel the authority to conclude a salvage contract on behalf of the owner of property on board the vessel, it is unlikely that this authority extends to an amendment of a pre-existing salvage contract, which would be the case if the owner were to opt to switch from the standard T&T OPA 90 Agreement to LOF, and, thus, specific agreement would in all probability be needed from cargo interests to this change. If exercising this option, Members are, consequently, advised to consider the potential need to obtain cargo interests' authority before doing so and that a failure to recover from cargo interests because the owner did not obtain cargo interests' permission to switch contracts may not be a valid claim on their P&I (or hull) cover.

In addition, Donjon Smit have introduced some minor changes in the labelling of their contract. In the October circular, the reference was to Donjon Smit – July 2010, Version 1.1 on page 1 and Version 1.0 on subsequent pages. This version now shows Version 1.1 as a footer on all pages including the Annexes.

The current salvor contracts/funding agreements which have been reviewed by the International Group and found to conform with the Vessel Response Plan salvage guidelines are the following:

Donjon Smit – July 2010, Version 1.1
MRA – Marine Response Alliance, LLC Dated 2 August 2010
Resolve – Dated 14 June 2010
T&T Bisso – OPA 90 Ship Agreement Non-US – 22 April 2010
T&T Bisso – OPA 90 Ship Agreement US Owners – 15 June 2010
T&T Bisso SMFF Agreement Addendum February 2011

Members should further note that with effect from 1 January 2011, SCOPIC rates have increased. The current rates can be found at Appendix A in the following link.

<http://www.lloyds.com/The-Market/Tools-and-Resources/Lloyds-Agency-Department/Salvage-Arbitration-Branch/SCOPIC>

The rate comparison published in the two previous Circulars has not been updated and should now be disregarded.

Yours faithfully
A BILBROUGH & CO LTD
(MANAGERS)

All Clubs in the International Group of P&I Clubs have issued similar circulars.