

# APPENDIX

## AMENDMENTS TO THE RULES OF THE UNITED KINGDOM MUTUAL STEAM SHIP ASSURANCE ASSOCIATION (BERMUDA) LIMITED AND TO THE RULES OF THE UNITED KINGDOM MUTUAL STEAM SHIP ASSURANCE ASSOCIATION (EUROPE) LIMITED

To be considered by the members of the Association at the Special General Meeting of the Association to be held in Bermuda on 19th January 2017.

### AMENDMENTS TO THE RULES

#### Rule 2, Section 12, proviso b) – Pollution risks

*Amend Rule 2, Section 12, proviso b) by deletion as indicated below:*

b) Unless and to the extent that special cover has been agreed in writing by the Managers, the Association shall not reimburse any liability, loss, cost or expense which would have been recoverable in general average if the cargo of the entered ship had been carried on terms no less favourable to the Owner than those of the York-Antwerp Rules ~~1994~~.

#### Rule 2, Section 12, proviso c) – Pollution risks

*Amend Rule 2, Section 12, provisos (c) by deletion of words as indicated below:*

c) Unless the Managers otherwise agree in writing, the Owner of an entered ship which is a “relevant ship” as defined in the Small Tanker Oil Pollution Indemnification Agreement ~~2006~~ (STOPIA ~~2006~~) shall during the currency of that Agreement be a party to STOPIA ~~2006~~ for the period of entry of such ship in the Association and, unless the Directors otherwise determine, shall not be entitled to any recovery under this Rule 2, Section 12 in respect of such ship in relation to any casualty, event or matter occurring during a period when the Owner is not a party to STOPIA ~~2006~~.

#### Rule 2, Section 13 – Liability arising out of towage of or by an entered ship

*Amend Rule 2, Section 13 (a) & (b) by addition of words in bold type below:*

##### **A. Customary towage of an entered ship**

Liability, other than for the cost of the contracted services, **arising out of, or** under the terms of a contract for, the customary towage of an entered ship, that is to say:

i. towage for the purpose of entering or leaving port or

### EXPLANATORY NOTES

#### Rule 2, Section 12, proviso b) - Pollution risks

*The latest version of the YAR 2016 has received wide support by the shipping industry, however since all versions of the York Antwerp Rules are acceptable for the purpose of this Rule on Pollution risks, it is proposed to adopt a simple generic amendment referring to the “York Antwerp Rules” without reference to any specific version. The amendment does not give rise to any change in the cover provided.*

#### Rule 2, Section 12, proviso c) - Pollution risks

*It is anticipated that Club boards will agree to update the STOPIA 2006 agreement by means of minor revisions to the review procedures within the agreement. The purpose of the proposed Rule amendment is to allow for automatic incorporation within the Rules of whatever version of STOPIA is current, so that the updated version will be incorporated once in force.*

#### Rule 2, Section 13 – Liability arising out of towage of or by an entered ship

*The purpose of the proposed change is to align the Club’s Rule more closely with relevant Pooling provisions. The amendment reflects the Club’s existing practice and therefore makes no material difference to the scope of cover.*

manoeuvring within the port during the ordinary course of trading, or

ii. towage of such entered ships as are habitually towed in the ordinary course of trading from port to port or from place to place, to the extent that the Owner is not insured against such liability under the Hull Policies of the entered ship.

**B. Towage of an entered ship other than customary towage**

Liability **arising out of**, or under the terms of a contract for, the towage of an entered ship other than the customary towage covered under paragraph (A) of this Section but only if and to the extent that cover for such liability has been agreed with the Managers upon such terms as the Managers may require.

For the purpose of this paragraph B, the Managers will approve contracts for towage of an entered ship on terms not less favourable to the entered ship than:

i. The Lloyds standard form of salvage agreement (1980, 1990, 1995 or 2000, whether or not incorporating SCOPIC), or

ii. a contract that contains a term that the parties to the towage contract, and any parties on whose behalf they contract, shall be responsible for any loss of or damage to or wreck removal of their own ship, cargo or property and for loss of life or personal injury thereon, without recourse against the other and will indemnify the other against any such liability.

**Rule 2, Section 14 – Liability arising under certain indemnities and contracts**

*Amend Rule 2, Section 14 by addition in bold type below and deletion as indicated below:*

Liabilities, **costs and expenses** ~~for loss of life, personal injury or illness, or for loss of or damage to property,~~ arising under the terms of an indemnity or contract given or made by or on behalf of the Owner relating to facilities or services provided or to be provided to or in connection with an entered ship, but only if and to the extent that:

- i. the terms have previously been approved by the Managers and cover for the liability has been agreed between the Owner and the Managers on such terms as the Managers may require, or
- ii. the Directors in their discretion decide that the Owner should be reimbursed.

**Rule 2, Section 14 – Liability arising under certain indemnities and contracts**

*The purpose of this change is to align the Rule with the Pooling Agreement so as to accommodate cover for any kind of contractual indemnity relating to P&I risks, but always subject to the condition that cover is available only where the terms have been approved by the Managers, or where the Directors in their discretion so decide.*

**Rule 5 (E) – Exclusion of war risks**

*Amend Rule 5(E) by addition in bold type below:*

**E. Exclusion of war risks**

The Association shall not indemnify an Owner against any liabilities, costs or expenses (irrespective of whether a contributory cause of the same being incurred was any neglect on the part of the Owner or on the part of the Owner's servants or agents) when the loss or damage, injury, illness or death or other accident in respect of

**Rule 5 (E) – Exclusion of war risks**

*The proposed amendment will make clear that ransom is not recoverable except at the discretion of the Members' Committee.*

which such liability arises or cost or expense is incurred, was caused by:

- i. War, civil war, revolution, rebellion, insurrection or civil strife arising therefrom, or any hostile act by or against a belligerent power, or any act of terrorism.
- ii. Capture, seizure, arrest, restraint or detainment (barratry and piracy excepted) and the consequences thereof or any attempt thereat;
- iii. Mines, torpedoes, bombs, rockets, shells, explosives or other similar weapons of war (save for those liabilities, costs or expenses which arise solely by reason of the transport of any such weapons whether on board the entered ship or not), provided always that this exclusion shall not apply to the use of such weapons either as a result of government order or with the written agreement of the Directors or the Managers where the reason for such use is the avoidance or mitigation of liabilities, costs or expenses which would otherwise fall within the cover given by the Association.

PROVIDED ALWAYS that:

a) In the event of any dispute as to whether or not an act constitutes an act of terrorism, the decision of the Directors shall be final.

**b) Ransom shall not be recoverable unless and to the extent that the Members' Committee in its discretion shall otherwise decide.**

*Note: When deciding whether to exercise its discretion, the Committee will consider the merits of each case individually including but not limited to whether the Owner had taken such precautions as appear to the Committee to be reasonable to avoid the event that gave rise to the ransom.*

c) The Directors may resolve that special cover be provided to the Owner against any or all of the risks set out in Rule 2 notwithstanding that those liabilities, costs or expenses would otherwise be excluded by this paragraph (E) and that such special cover should be limited to such sum or sums and be subject to such terms and conditions as the Directors may from time to time determine.

#### **General changes related to establishment of Members' Committee**

**See Annex (separate document available to download from the UK Club website: <http://tinyurl.com/huugrd2>)**

*Amend the Rules by substituting the words "Members' Committee" in place of the word "Directors" where indicated by yellow highlighting in Rule 2 and Rule 5 in the attached Annex.*

*Add references to the Members' Committee, as indicated with yellow highlighting in the attached Annex, to Rule 38 – Meetings of the Members' Committee, Rule 43 – Delegations, Rule 44 – Definitions, and the Table of Contents and the Index to the Rules.*

*The Annex does not incorporate the other Rule changes proposed above.*

#### **General changes related to establishment of Members' Committee**

*A Members' Committee was constituted at the Annual General Meeting held on 19 November 2016.*

*The purpose of the proposed amendments is to transfer, to the Members' Committee, certain discretionary powers in respect of claims and related obligations under Rules 2 and 5.*