



# **ASIAN SHIPOWNERS FORUM**

## **SHIP INSURANCE AND LIABILITY COMMITTEE**

c/o Hong Kong Shipowners Association

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### **JOINT STATEMENT**

17<sup>th</sup> April 2007

The 12<sup>th</sup> Interim meeting of the Asian Shipowners Forum (ASF) Ship Insurance and Liability Committee was held in Hong Kong on Tuesday, 17<sup>th</sup> April 2007.

Attending the meeting were delegates representing shipowner associations from China, Chinese Taipei, Hong Kong, Japan, Korea and the Federation of ASEAN Shipowner Associations (FASA), as represented by shipowner associations from Indonesia, the Philippines, Singapore and Vietnam.

The Committee expresses its concern over the potential implications of the proposed Directive of the European Parliament and the Council on the Civil Liability and Financial Guarantees of Shipowners. While applauding the draft Directive's support for the ratification of existing instruments, the Committee had several concerns, amongst them being possible confusion in the document about P&I insurance and the role of limitation in ensuring maximum possible amounts of compensation were made available to victims in the shortest possible time. The Committee also felt that the proposals in relation to abandonment of seafarers were unclear and abandonment was best left to the newly adopted ILO Maritime Labour Convention.

But the Committee was most concerned that the proposed Directive risked introducing grave instability into the insurance and legal systems that governed international shipping. Uncertainty created by regional legislation with varying definitions of negligence combined with insistence that all ships carry financial guarantees would create confusion in the global industry.

The Committee noted the progress of the UNCITRAL working group in the development of a new Convention on the Carriage of Goods, and extended its appreciation to the representatives of ICS, BIMCO and the International Group of P&I Clubs for their hard and detailed work on behalf of the industry. The Committee, however, will reserve its comments until a draft text for the Convention has been developed and a comparison has been made between the terms of existing transport law and the new Convention.

The Committee discussed, once again, the potential impact of the 2002 Athens Convention, and noted that the two issues that had been outstanding, the 'war/terrorism' issue and the 'amounts' issue, would now appear to be resolved. The Committee noted the presentation from Marsh that indicated that adequate insurance cover would be available for terrorism (war) risks under the Convention. The Committee also noted the proposed solution for the issuance of the 'blue cards' that would allow states to issue the certificates of financial responsibility required under the Convention for trade in jurisdictions where the Convention is applicable. The Committee noted that P&I Clubs had taken steps within the International Group system to manage the impact that a large passenger ship incident might have on the International Group system and owners of other ship types.

The Committee is pleased that the discussions on the long outstanding issue of the proposed Wreck Convention are now coming to an end. It is unfortunate, however, that an opportunity would appear to have been missed to create a uniform liability regime for wreck removal in territorial waters, where most wrecks occur.

The Committee noted the amendments to the Canadian Migratory Birds Act (1999) made by the adoption of Bill C-15 and continues to support the concerns expressed by the Canadian shipowners. In this respect, the Committee once again urges the Canadian government to review the amendments and consider whether the provisions that affect the human rights of seafarers should be repealed.

The Committee noted the progress of the 1992 IOPC Fund Fourth Intersessional Working Group on Measures to promote Quality Shipping and once again expressed its support for the positive measures that are under discussion.

The Committee once again deplores all instances of deliberate oil pollution from ships, and supports the work of various Associations and International Organisations to remind operators of existing ships of their responsibilities and obligations and to develop updated guidelines for engine room oily waste management systems for new and existing ships. The Committee notes the progress of the legal challenge to the new European Union Ship Source Pollution Directive, which was to be adopted by European member states by 1<sup>st</sup> April 2007, mounted by a coalition of industry organisations and expresses its continuing concern at the potential effect of the Directive in criminalising accidental oil pollution. The Committee draws the attention of European states to the problems they might experience with the conflict between the provisions of MARPOL and UNCLOS and the Directive when adopting the Directive into their local legislation.

The next meeting of the Committee will be held in Busan, Korea, on 29<sup>th</sup> May 2007, just before the 16<sup>th</sup> annual meeting of the Asian Shipowners Forum.

For more information, please contact the Secretary of the Committee, Arthur Bowring, at the contact address shown in the header.

Editor's note:

The Asian Shipowners Forum consists of 7 Shipowner Associations in the Asian region, being those from Australia, China, Chinese Taipei, Hong Kong, Japan, Korea and the Federation of ASEAN Shipowners Associations (FASA), which comprises the Shipowner Associations of Indonesia, Malaysia, the Philippines, Singapore, Thailand and Vietnam. The aims of the ASF are to promote the interests of Asian shipowners and operators. Between annual ASF meetings, the ongoing work is carried out by five "S" Committees; the Shipping Economics Review Committee, the Seafarers Committee, the Ship Recycling Committee, the Safe Navigation and Environment Committee, and the Ship Insurance and Liability Committee. It has been estimated that ASF Owners and Managers control and operate around 40% of the world's cargo carrying fleet.