



ASIAN SHIPOWNERS FORUM

SHIP INSURANCE AND LIABILITY COMMITTEE

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JOINT STATEMENT

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The 13th Interim meeting of the Asian Shipowners Forum (ASF) Ship Insurance and Liability Committee was held in Hong Kong on Tuesday, 8th April 2008.

Attending the meeting were the Secretary-General of the ASF and 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 Malaysia, the Philippines, and Singapore.

The Committee took note of the draft of the new UNCITRAL Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea that was agreed in January this year, and extends its deep appreciation to the representatives of the International Chamber of Shipping, BIMCO and the International Group of P&I Clubs for their hard and dedicated work on behalf of the industry over a number of years. While the finalisation of the draft is a welcome step forward, in that it presents a complete document and allows comparisons to be made with existing transport law, the Committee notes that the draft will be further considered at the 41st session of UNCITRAL to be held in June and July this year where it is possible that further amendments will be made. The Committee briefly reviewed the draft text, and had concerns with the levels of liability in Article 61, which exceeded those in the Hague-Visby and Hamburg Rules. The liability limits seemed to have been agreed for reasons other than those justified by the review of historical claims records, and were likely to create a barrier to ratification of the Convention by some countries, particularly those in Asia.

The International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (the HNS Convention) was adopted by the IMO in 1996 but has not yet entered into force as it has not attracted sufficient ratifications. The reasons for the lack of interest in the Convention are known, and a draft Protocol has been developed by an HNS Focus Group set up under the IOPC Assembly in order to attempt to alleviate concerns and encourage ratification. The Committee agreed that early ratification of the Convention was in the industry's interests, and would have preferred a solution within the framework of the Convention. If the solution is found within the draft Protocol, however, the Committee will support this as long as the solution is international and that the well-established principle of the sharing of liability between the owner and cargo interests is not weakened. The Committee had particular concern that the issue of contributions to the LNG account might not have been addressed in a way that would satisfy States that import and export LNG.

The Committee once again 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 proposed 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 noted the compromise proposal that has been put forward by the Presidency, but still has major concerns over the potential implications of the proposed Directive.

The Committee noted that the International Convention on Civil Liability for Bunker Oil Pollution Damage (2001) ("Bunkers Convention") will come into force on 21st November 2008. From this date, a ship registered in a country that has ratified the Convention or enters or leaves a port of a country that has ratified the Convention, and has a gross tonnage greater than 1,000 gt, must carry a Certificate of Financial Responsibility issued by a State Party to the Convention. As only 20 States have ratified the Convention to date, and the requirement to carry the Certificate will apply to a very large number of ships, the Committee urges both the States that have ratified the Convention and the International Group to urgently address the need to provide the relevant certificates to ships trading to Convention countries.

The Committee supports the decision of the IMO Legal Committee, at its 93rd session in October 2007, to ask the IMO Secretariat to develop a model insurance certificate that may be used for every ship under the relevant IMO Conventions. Such a single insurance certificate will simplify one aspect of the operation of ships in international trade.

The next meeting of the Committee will be held in Hainan Province, China on 3rd June 2008, just before the 17th 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 Secretariat of the ASF is located in Singapore. 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.