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NON-TECHNICAL MEASURES TO PROMOTE QUALITY SHIPPING FOR CARRIAGE OF OIL BY SEA

Submitted by International Union of Marine Insurance (IUMI)

Summary:	The 1992 Fund Working Group meeting held between 14 and 15 March 2007 raised a number of questions relating to the treatment of substandard ships within the hull insurance market. Following discussions at the meeting answers to the following questions may assist in explaining the position of marine insurers: (a) How does the hull insurance market operate? (b) How does the operation of the hull insurance market differ from that of P & I Clubs? (c) What are marine insurers doing to promote Quality Shipping? (d) What moves can be encouraged through the IOPC Funds to assist marine insurers in sharing information to improve ship safety bearing in mind legislative obstacles in certain jurisdictions?
Action to be taken:	Information to be noted.

1 Introduction

1.1 This document has been prepared on behalf of marine property underwriters by the International Union of Marine Insurance (IUMI). IUMI's primary objective is to represent, safeguard and develop insurers' interests in marine and transport insurance. Membership of IUMI comprises national or marine insurance market associations which exclusively represent the interests of insurers. At present, membership stands at 54 Associations. It should be understood that IUMI has no ability or authority to interfere in individual risk-taking decisions. However, IUMI does have a role in communicating and encouraging best practice among its membership.

1.2 In January 2001 the Maritime Transport Committee of the Organisation for Economic Co-operation and Development (OECD) commissioned an independent report regarding the impact of insurance (both property and P & I) on the operation of substandard shipping. The resulting report provided a comprehensive analysis of this subject. Individual representatives from the IUMI membership were consulted during the drafting of this report and the majority of the responses in this document reflect the content of that report. The report itself is freely available and can be provided if this would be of assistance.

1.3 As a general comment, individual insurers are supportive of industry moves to remove substandard shipping from the world trading fleet. Individual underwriters will tend to take risk-selection decisions with a view to avoiding substandard shipping. However, in the context of a highly competitive global market some insurers may make marginal decisions based on maintaining market share rather than risk quality. IUMI plays a role in educating its membership and providing risk assessment information both through its website, and at its annual conferences, which will allow its membership to make better informed decisions in relation to risk selection.

2 How does the hull insurance market operate?

2.1 The operation of the marine insurance market is complex. The attached extract from the OECD Report provides an overview of the operation of both the marine insurance (property) market and the operation of the P & I market.

"It should be recognised that individual insurers will have varying books of business from their competitors, with differing loss experiences, and will each have their own underwriting philosophy and criteria for risk selection based on a number of factors. These will typically include items such as an owner's record, factors such as flag, class age and vessel type and detention record. It will also encompass insurers' own statistics, those available in the public domain, and tools such as Equasis to provide them with the information they need. The decision-making process will also take into account the insurers own book of business and areas of exposure. This will mean that insurers' attitudes and views towards specific risks will vary. In this context, if an individual insurer wishes to select against a particular owner due to concerns over their operations, it is relatively easy for that owner to get their insurance placed with other insurers who have different selection criteria. Until the current levels of over-capacity within the international market are addressed, the potential for insurers to play a leading role in selecting against sub standard shipping is limited."

3 How does the operation of the hull insurance market differ from that of P & I Clubs?

3.1 The attached extract from the OECD report gives a very clear outline of the differences between the operations of the two markets.

"In addition to the fact that the risks covered will vary between property and P & I insurers, the other major operational difference is that the property insurers are separate individual entities providing coverage to clients on a commercial basis. The aim of the insurers is to make a profit through their underwriting activities which will allow a return on capital. Shipowners have the ability to move the insurance of their vessels based on aspects of coverage and price. The market suffers from over capacity, which will often make price the deciding factor for insureds in choosing their risk carriers.

P & I Clubs are mutual insurance associations owned by the shipowners who are their insured members, and existing solely to provide these owners with their liability cover. The Clubs do not have a profit requirement within their premium calculations. Under the Club arrangements an initial amount is charged by the club to each member (the advanced call). A decision is subsequently taken by the club, based on the general claims trends for the year, as to whether a further amount will be required (the supplementary call), and the amount of the call. In a good year there may be a return to the member of monies called but not required to pay for claims. The amount payable by each member is proportional to the estimate of the risk that the member bears to the club.

In terms of premium, the marine insurer will usually charge an annual premium for the coverage offered, and whilst there might be some adjustments due to specific trading requirements during the policy period, the premium is largely fixed at the outset."

4 What are marine insurers doing to promote Quality Shipping?

4.1 In an industry as diverse as the marine market it is difficult to provide a definitive answer to this question. However, it would be fair to say that in the current climate of growing concern over the need to remove 'substandard' shipping, marine insurers are aware that, as part of the wider maritime community, they have a role to play in supporting the drive towards quality tonnage.

4.2 Many insurers have become more diligent and discriminating in their risk selection in recent years, but in view of the competitive nature of the market place, as mentioned in the previous answers above, this action by individual insurers will not necessarily lead to the removal of 'substandard' shipping from the world fleet. The main tool available to underwriters outside declining the risk is to increase premiums, but with the existing available levels of global capacity it is again easy for owners to be selective in terms of their pricing. It should be borne in mind that insurance costs account only for an estimated average of 10% to 12% of shipowners overall operating costs, and in this context, even a significant increase in the cost of insurance would not be decisive in penalising shipowners with poor operating records or forcing substandard tonnage out of operation on the basis of cost.

4.3 Against this background, national associations, and IUMI, try within the available framework to encourage best practice and to make available information which will assist underwriters in their risk selection. There is an underlying difficulty in that in many legislative regimes there are very strong competition regulations which limit the degree to which insurers can share information. Among a number of points made within the OECD Report there is a recognition that insurers' efforts in this regard would be greatly assisted if national and regional laws and regulations could be modified as necessary to remove barriers to allowing a freer flow of information between insurers in relation to aspects which impact on vessel quality.

4.4 Previous approaches by the marine insurance industry to regulators in this regard have been unsuccessful, but there is a growing feeling that in relation to marine insurance issues that this subject should be re-visited.

4.5 This problem is one which has exercised the minds of marine underwriters for some considerable time, particularly in view of the robust anti-competition legislation which exists within the EU which severely limits the information which insurers can share among themselves. It would appear that the legal regime in Norway differs from that in the EU, but the end result is the same.

4.6 The difficulties with insurers sharing information have become greater in recent years as the EU competition regulations have become more developed. One of our members operating in a subscription market has had to be very careful over the nature and extent of information which they share with other insurers within the market in relation to assureds.

4.7 Particular problems in this regard first came to light during the early to mid 1990s. At the time there was growing criticism that marine insurers were not doing enough to promote and support quality shipping. During this period these cargo underwriters were looking to introduce a vessel grading scheme to augment the Institute Classification Clause (ICC). The ICC basically requires that a vessel is appropriately classed with recognised Classification Societies. The clause provides the only means available for cargo underwriters to ensure that the vessels carrying the goods they are insuring do at least meet a basic standard. In an attempt to improve this situation, cargo underwriters developed a system under which vessels received a numerical grading based on a number of factors, some related directly to the vessel itself such as vessel type and age, others were based on the vessel's ownership and management. It became apparent that there could be potential problems under EU law over use of the system, with owners targeted under the scheme being in a position to sue underwriters who used it. In view of this, an approach was made to the EU to seek some form of dispensation to allow the information to be shared and used by underwriters without the threat of action by shipowners. The EU confirmed that no such dispensation could or would be given, so the proposed system was shelved.

4.8 The amendments to legislation within Norway seem to be a step forward, but still require insurers to notify their assureds of any information being shared. This notification will inevitably limit the real benefits of the revisions. As in other areas, it is likely to be those owners who take their responsibilities seriously and are of less concern to insurers that would agree to their information being shared, while 'target' owners would not allow their details to be included.

5 What moves can be encouraged through the IOPC Funds to assist marine insurers in sharing information to improve ship safety bearing in mind legislative obstacles in certain jurisdictions?

5.1 The main barriers to the sharing of information are the legal restrictions which prevent sharing of information either from a competition perspective, or which could lead to the sharing of information which could be detrimental to a third party organisation. These concerns are particularly prevalent within the EU and the US. Any steps which could be taken internationally to relax these restrictions in areas which will impact on sharing of information relating to vessel operations and quality could assist the marine insurance industry in supporting the drive towards quality shipping.

6 Action to be taken by the Working Group

The Working Group is invited to take note of the information contained in this document.