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INSURANCE UNDER ARTICLE VII, PARAGRAPH 1 OF THE 1992 CIVIL LIABILITY CONVENTION

Submitted by the International Group of P & I Clubs

Summary:	Information is given on certain problems which have arisen in respect of insurance cover required under Article VII, paragraph 1 of the 1992 Civil Liability Convention.
Action to be taken:	Information to be noted.

Certification under the Civil Liability Convention

- 1** The International Group of P & I Clubs wishes to report to the Assembly on the impact of recent changes in marine insurance conditions on the compulsory insurance requirements of the 1992 Civil Liability Convention.
- 2** The Clubs in the International Group are the principal providers of the Blue Cards on the basis of which States issue the Certificates of Insurance or Other Financial Security which are required under the Civil Liability Convention. Under these Certificates the insurer is required to respond in respect of the liabilities arising under the Convention.
- 3** Put simply, the problem arises because terrorism would generally fall within the provisions of Article III.2.b of the Convention according to which the shipowner is exonerated only if he proves that the damage was 'wholly caused' by an act or omission done with the intent to cause damage by a third party. Thus any contributory negligence of the shipowner would render the defence inapplicable. This is of particular concern since recently agreed international instruments have required shipowners to take increased security precautions with the result that negligence can be more readily found. The exclusion in the owner's cover and in the Clubs' own reinsurances are more comprehensive than the defence under the Convention. This has the consequence that the shipowner could incur a liability under the Convention which, but for the undertaking given in the Blue Card, would ordinarily fall outside the owner's P&I insurance cover.
- 4** For the balance of the current policy year, that is until 20 February 2004, the Clubs will continue to honour those Certificates that have already been issued, as they are obliged to do. Strenuous efforts are being made to provide suitable cover for the future and recent discussions with market

underwriters give grounds for optimism; it is hoped therefore that a way forward will be found for consideration by Club Boards later this year. In any event, the IOPC Fund Secretariat will be kept informed of developments.

5 Action to be taken by the Assembly

The Assembly is invited to take note of this information.
