

Annex 2

STOPIA – Additional provisions for the MoU between the Clubs and the 1992 Fund

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6A. STOPIA

- (i) The following terms in this Clause 6A shall have the same meaning as in Clause 1 of STOPIA:- 'Club', 'Indemnification', 'Insurance', 'Insured', '1992 Fund', 'Relevant Ship', 'Entered Ship', 'Pollution Damage', 'Incident', 'Owner', 'Participating Owner', 'Liability Convention', 'Ship'.
- (ii) The Clubs shall provide cover, on terms similar to those governing other forms of oil pollution risk, against any liabilities incurred by their members to pay Indemnification to the 1992 Fund under the Small Tanker Oil Pollution Indemnification Agreement (STOPIA).
- (iii) In respect of Relevant Ships, Club cover shall provide for automatic entry in STOPIA by virtue of entry in the Club for Insurance against oil pollution risks. However, nothing in this Clause 6A shall require the terms of Club cover -
 - (a) to apply such automatic entry to any Ship the Owner of which expressly objects to becoming a Participating Owner or has previously withdrawn from STOPIA; or
 - (b) to affect the right of the Participating Owner to withdraw from STOPIA at a later date; or
 - (c) to exclude any Ship not entered in STOPIA from cover against pollution risks.
- (iv)
 - (a) The Clubs, through the International Group Secretariat, shall notify the 1992 Fund annually of the names of all Ships entered in each Club which are Entered Ships.
 - (b) A Club shall notify the 1992 Fund as soon as practicable of the name of any Entered Ship which was not included in the most recent annual notification made to the 1992 Fund under Clause (iv)(a) above.
 - (c) A Club shall notify the 1992 Fund as soon as practicable of the name of
 - (1) any Relevant Ship which is accepted for entry in that Club for Insurance against oil pollution risks without being or becoming entered in STOPIA; or
 - (2) any Ship which has been entered in the scheme (whether as a Relevant Ship or pursuant to Clause III(D) of STOPIA) and which ceases to be entered in STOPIA whilst remaining insured against such risks by that Club.
- (v) Where Pollution Damage is caused by an Incident involving an Entered Ship, a claim by the 1992 Fund under STOPIA may be brought directly against the Club by which the Ship is insured. The Club may avail itself of the defence that the Pollution Damage resulted from the wilful misconduct of the Participating Owner himself but it shall not avail itself of any other defence which it might have been entitled to invoke in proceedings brought by the Participating Owner against it. The Club shall in any event have the right to require the Participating Owner to be joined in proceedings against it. Save as aforesaid, any such proceedings against the Club shall be subject to the same provisions of STOPIA as those applying to a claim against the Participating Owner.

- (vi) Where Pollution Damage is caused by an Incident involving a Relevant Ship which is not an Entered Ship at the time of the Incident, the 1992 Fund shall enjoy the same rights against the Club insuring the Ship at that time as are set out in Clause 6A(v) above, and notwithstanding that there is no liability under STOPIA on the part of the Owner, unless the 1992 Fund has previously received notice, whether under Clause 6A(iv)(c) above or otherwise, of the Ship's non-entry (or cesser of entry) in STOPIA.
- (vii) For the avoidance of doubt, this Clause 6A does not apply to any Ship which at the time of the Incident is not a Relevant Ship as defined by STOPIA, and it does not confer on the 1992 Fund any rights of action against any insurer other than the Club insuring the Relevant Ship at the time of the Incident.
- (viii) Rights of direct action conferred by this Clause 6A shall apply irrespective of whether the Relevant Ship is required by Article VII of the Liability Convention to carry a certificate of insurance.
- (ix) Notwithstanding Clause X(B) of STOPIA, the International Group undertakes to consult with the 1992 Fund well in advance of any decision being taken if it considers terminating or amending STOPIA, so as to enable the 1992 Fund to present its views.
- (x) This Clause 6A of this Memorandum shall cease to have any effect in the event that STOPIA is terminated in its entirety in accordance with Clause VIII thereof.
- (xi) The 1992 Fund may terminate Clause 6(A) by giving three months notice to the International Group.
- (xii) Any claims or disputes in relation to Clause 6A of this Memorandum shall be governed by English law and be subject to the exclusive jurisdiction of the English High Court of Justice.