

## No. 12 - ITOPF - Associate Status

December 1998

Dear Sirs

### ITOPF - ASSOCIATE STATUS

The International Tanker Owners Pollution Federation Limited (ITOPF) was established as a non-profit making organisation in 1968, primarily to administer the TOVALOP voluntary oil spill compensation agreement. This remained an important function up until 20 February 1997 when TOVALOP was terminated. However, the main focus of ITOPF's activities for more than 25 years has been and continues to be the provision of a broad range of technical services in the field of oil pollution to and on behalf of shipowners (most especially the organisation's tanker owner Members), their P&I insurers and other groups such as the International Oil Pollution Compensation Funds. At the request of its Board, ITOPF has recently undertaken a comprehensive review of its services, which include:

- Response to marine spills
- Damage assessment and claims analysis
- Contingency planning and advisory work
- Training and education
- Information services

ITOPF's activities in all these areas have established its credibility as a source of objective technical advice, expertise and information on oil spill matters. This has generated many valuable relationships with Governments, regional authorities and intergovernmental organisations around the world.

ITOPF's priority service is responding to marine oil spills and the organisation's team of highly-experienced technical staff are at constant readiness to travel anywhere in the world at a few hours notice. Although the majority of the 400 incidents attended on-site by ITOPF staff since the mid-1970s have involved tankers, the Clubs have often called upon ITOPF to assist in cases of bunker spills from non-tankers. Whereas tanker owners who are Members of ITOPF pay dues and receive technical assistance following a spill on an expenses only basis, non-tanker owners have been charged a daily fee for such assistance. Over the last ten years, about 25% of all oil spills attended by ITOPF have been bunker spills from non-tankers, although only about 3% of ITOPF's total income has derived from such activities. Whilst the work of ITOPF has therefore been of considerable benefit to the shipowning community in general, it is evident that the cost of maintaining the organisation's expertise and technical services has been unfairly distributed between tanker owners and non-tanker owners.

On the recommendation of its Board, the ITOPF Membership at its Annual General Meeting on 5th November 1998 accordingly voted in favour of a Special Resolution to amend the organisation's Memorandum and Articles of Association, amongst other things to permit non-tanker owners to become Associates of ITOPF with effect from 20 February 1999.

Oil spills are viewed with increasing concern by Governments and others around the world. The way in which each spill is handled can have a direct effect on the attitudes of Governments and claimants in subsequent cargo and bunker spills. By permitting non-tanker owners to become Associates of ITOPF additional income will be generated which will allow ITOPF

to strengthen its technical resources and increase the extent of its core activities. This will benefit all shipowners and their Clubs.

Your Board, along with the Boards of all the other Clubs in the International Group, has considered and given its support to enrolling non-tanker owners as Associates of ITOPF. Because the potential number of Associates comprises owners of approximately 60,000 vessels totalling some 280 million GT, it is important that entry procedures are kept as simple as possible.

Subject to any owner deciding to exercise his right not to become either a Member or an Associate, as appropriate, the entry procedures will be as follows:

1. The Club will continue to arrange for the entry of tanker owners as Members of ITOPF and pay the dues on their behalf out of the funds of the Association. The Club will enrol its non-tanker owners as Associates of ITOPF and pay the dues on their behalf out of the funds of the Association. Tanker owners cannot become Associates.
2. The rate of dues for tanker owner Members for the year commencing 20 February 1999 will be 0.85 of a UK penny per gross ton (reduced from the current rate of 0.9). The rate for Associates will be 0.23 of a UK penny per gross ton.
3. The rights and obligations of Associates are set out in the Terms and Conditions of Associate Status, approved by the Board of ITOPF, and annexed to this Circular. The Terms and Conditions of ITOPF Membership are provided each year to Members on the reverse side of their Membership Record Forms and in the ITOPF Membership Handbook.

Associates, unlike Members, will have no voting rights in ITOPF but will have access to ITOPF's spill response services (without fees) and the right to request free publications and advice. For administrative convenience, information issued by ITOPF for the benefit of Associates will normally be disseminated via the P&I Clubs.

Although a number of existing Directors of ITOPF represent owners operating both tankers and other types of vessel, it is proposed that two additional Directors will be appointed to the ITOPF Board to represent Associates.

Although the ITOPF Membership procedures for tanker owners are not changing, it is worth noting that ITOPF's definition of tanker has been extended to include Any ship (whether or not self-propelled) designed, constructed or adapted for the carriage by water in bulk of crude petroleum, hydrocarbon products and any other liquid substance. This wider definition, which is designed to be consistent with that followed by the Clubs, will allow the owners of LPG and LNG carriers, as well as all other types of tanker not previously eligible for entry in ITOPF, to become full Members with effect from 20 February 1999. Recognising that this broader definition could require some owners to enter tankers in ITOPF against their wishes, a further amendment was made to the organisation's Articles to remove the obligation on ITOPF Members to enter all their tankers in the organisation. However, if a non-entered tanker subsequently suffered a spill and the Member or P&I Club required ITOPF's technical services, these would only be available if ITOPF had sufficient capability and a significant daily fee would be charged.

We recommend that all owners who have not done so already take advantage of this opportunity to become Members or Associates of ITOPF, as appropriate.

Yours faithfully

**The West of England Ship Owners  
Insurance Services Limited**  
(As Managers)

**C.A.G. Havers**  
Director

## THE INTERNATIONAL TANKER OWNERS POLLUTION FEDERATION LIMITED

### TERMS AND CONDITIONS OF ASSOCIATE STATUS

*(effective 20<sup>th</sup> February 1999)*

1. Associate status of The International Tanker Owners Pollution Federation Limited (ITOPF) is subject to these Terms and Conditions, which apply to all Associates of ITOPF as at 20<sup>th</sup> February, 1999, and to all persons who thereafter become Associates. The Directors of ITOPF have the right from time to time to add to or modify these Terms and Conditions.
2. Associate status of ITOPF is available only to such persons as the Directors of ITOPF may determine being an owner or demise charterer (Owner) of any ship other than a tanker (Ship). For these purposes tanker means any ship (whether or not self-propelled) designed, constructed or adapted for the carriage by water in bulk of crude petroleum, hydrocarbon products and any other liquid substance.
3. An Associate may be required to notify ITOPF (or ensure that ITOPF is notified) in writing from time to time of the name and tonnage of Ships of which it is or becomes Owner and in respect of which it wishes to be entitled to the services of ITOPF. An Associate who is no longer the Owner of any Ship shall automatically cease to be an Associate of ITOPF.
4. Subject to these Terms and Conditions, an Associate has the right to request ITOPF to provide technical and other services, advice and information (Services) in relation to:
  - a. a spill (or the threat thereof) from a Ship, including on-site attendance to give technical advice with the aim of effecting an efficient response operation and mitigating any damage;
  - b. the technical assessment of damage caused by a spill from a Ship;
  - c. the technical assessment of claims for compensation resulting from a spill (or the threat thereof) from a Ship;
  - d. oil pollution contingency planning, response techniques and oil spill effects;
  - e. oil spill training courses, drills, exercises and similar events; and
  - f. the provision of such of ITOPF's publications as are for general circulation and such other general information and advice as is within the scope of ITOPF's Services.
5. ITOPF will charge each Associate an annual subscription to assist in meeting its general expenses. It is a condition of entitlement to Services that the Associate's ITOPF subscription has been paid in respect of the current year commencing 20<sup>th</sup> February and for all prior periods of Associate status, either directly or by another body on the Associate's behalf and in respect of all Ships notified pursuant to paragraph 3 of which the Associate is the Owner. If in a winding-up of ITOPF there remains any surplus which is attributable to Associates' subscriptions, that surplus shall be distributed among Associates in proportion to the amounts subscribed by them.
6. Although under no obligation to solicit or obtain such information, ITOPF reserves the right from time to time to request any Associate or its insurer to provide information satisfactory to ITOPF concerning the Associate's pollution liability insurance cover. It is a condition of entitlement to Services that any Associate or its insurer of which such a request is made will duly comply.

7. ITOPF reserves the right to recover costs incurred in respect of the provision of any Services from an Associate on whose behalf such costs are incurred. ITOPF will not normally charge a fee for providing Services to an Associate but may do so from time to time when circumstances warrant at ITOPF's discretion. It is a condition of entitlement to Services that an Associate will agree to, and arrange for, the payment of such costs and fees when so requested by ITOPF.
8. ITOPF reserves the right not to respond either in whole or in part to any request by or on behalf of an Associate for the provision of Services whether because of a failure on the part of the Associate to meet a condition set by ITOPF, or because of a lack of available ITOPF staff capacity, or for any reason which in ITOPF's opinion might adversely affect ITOPF, the safety of its staff, or the provision of the Services requested. In the case of competing demands for Services, ITOPF will normally give priority to its Members.
9. To the extent permitted by law, ITOPF shall have no liability to any Associate or other person for any direct, indirect, special or consequential loss, expenses and/or costs arising out of or in connection with the provision of, or failure to provide, any Services.
10. Notices to Associates may be given in such manner as ITOPF may determine and shall be deemed given if given to an Associate's insurer or by way of press advertisement.