



## ANY OTHER BUSINESS

### ENTRY INTO FORCE OF THE INTERNATIONAL CONVENTION ON CIVIL LIABILITY FOR BUNKER OIL POLLUTION DAMAGE (2001) ('BUNKERS CONVENTION')

#### Submitted by the International Group of P&I Clubs

<b>Summary:</b>	This document provides notification to States of the forthcoming entry into force of the Bunkers Convention and the administrative procedures that will need to be established by States Parties to ensure the provision of compulsory insurance certificates in accordance with Article 7 of the Bunkers Convention.
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<b>Action to be taken:</b>	Information to be noted.
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#### 1 Introduction

The International Group of P&I Clubs (International Group) recognises that the subject matter dealt with in this document is a matter that should be considered by the Legal Committee of the International Maritime Organization (IMO). However, given that the next meeting of the IMO Legal Committee is due to take place only one month prior to the entry into force of the Bunkers Convention and that shipowners will wish to obtain the necessary Bunkers Convention certificates sufficiently in advance of the entry into force date in November, the International Group considers that it is appropriate and of guidance to States to raise this matter now in the IOPC Fund.

#### 2 Bunkers Convention - Certification Requirements

- 2.1 The Bunkers Convention will, in accordance with Article 14 of that Convention, enter into force on 21 November 2008. As of 13 February 2008, 20 States have either ratified or acceded to the Convention, representing approximately 21.52% of the world tonnage.
- 2.2 Every ship that is registered in a Bunkers Convention State Party or enters or leaves a port in the territory of a State Party, and has a gross tonnage greater than 1 000 (GT), will be required to maintain insurance or other financial security in accordance with the provisions of the Convention and to obtain a certificate issued by a State Party attesting that such insurance or financial security is in force.
- 2.3 The State certificate must always be carried on board any ship over 1 000 GT entering or leaving a port or terminal in a State Party, unless the ship is registered in a State Party that maintains electronic records in accordance with Article 7(13) of the Convention.

- 2.4 Where a ship is registered in a State Party to the Bunkers Convention, a State Certificate must be obtained from the appropriate authority of the State of the ship's registry. A Ship registered in a State that is not party to the Convention will need to obtain a certificate from a State Party, if it is trading to or from a State Party.
- 2.5 These requirements are, of course, similar to the requirements contained in Article VII of the 1992 Civil Liability Convention (1992 CLC). The difference however with the Bunkers Convention, and the basis for the submission of this document, is the significantly greater number of vessels that will require the above mentioned certificates in order to meet the requirements of the Convention.
- 2.6 According to latest statistics there are approximately 41 000 vessels trading in the world fleet that have a gross tonnage greater than 1 000 (GT).
- 2.7 The above mentioned figure points to the conclusion that the provision of compulsory insurance certificates will be a significant undertaking and administrative obligation, not only for insurers but also for States Parties.
- 2.8 This burden on States Parties will, as already noted above, be exacerbated by the fact that ships that have a gross tonnage greater than 1 000 (GT) and are not registered in a State Party will also require certificates, and will need to obtain State-issued certificates from a State Party if they are trading to or from a State Party.
- 2.9 The intention of this document is simply to raise this matter given the forthcoming entry into force of the Convention in order to ensure that States Parties are fully aware of, and have the necessary procedures in place to meet, this undertaking well in advance of the entry into force date of 21 November 2008.

### **3 Electronic Certificates**

- 3.1 This document does not cover in detail the point already raised on electronic records, namely that a ship registered in a State Party is not required to carry on board or to produce the certificate required by Article 7(2) of the Bunkers Convention if that State Party has notified the IMO Secretary-General that it maintains records in an electronic format, accessible to all States Parties (cf Article 7(13) of the Bunkers Convention).
- 3.2 As far as the International Group is aware, there is no Flag State that is currently able to provide evidence of certification by electronic means.
- 3.3 It should also be noted that there is a growing practice amongst Clubs in the International Group to issue 1992 CLC certificates of financial responsibility (so called 'Blue Cards') to shipowner-entered members in electronic format, and that it is likely that this practice will continue with regard to the issuance of Blue Cards under the Bunkers Convention, in the anticipated event that the International Group Clubs agree to issue such Blue Cards. Clearly, 1992 CLC Flag State authorities are comfortable with this practice for the purposes of the 1992 CLC and it is not envisaged that this will be any different following the entry into force of the Bunkers Convention.
- 3.4 The International Group does, however, recognise that it is becoming increasingly common for authorities, governments, etc. to seek verification of the insurance cover of vessels, and that this may particularly be the case where an authority has received a Blue Card in electronic format.
- 3.5 In order to meet any such concerns and to demonstrate that a particular vessel is entered in an International Group Club, all International Group Clubs have developed a web-based facility that will allow port authorities, governments and other interested parties to search their databases to ascertain whether a vessel is entered or not in a particular International Group Club. The data underlying these search facilities is updated at least once every 24 hours (ie as and when changes occur) and does therefore provide an up to date list of all entered vessels. These ship search facilities

are accessible on each of the 13 individual International Group Clubs' websites. It is also worth noting that such electronic CLC Blue Cards are issued in a read only format, and that this will also be the case for electronic Bunkers Blue Cards.

**4 Action to be taken by the Executive Committee**

The Committee is invited to note:

- (a) the forthcoming entry into force of the Bunkers Convention;
  - (b) the requirement on State Parties to the Bunkers Convention to provide compulsory insurance certificates; and
  - (c) the need for State Parties to the Bunkers Convention to establish procedures well in advance of the entry into force of the Bunkers Convention in order to ensure the efficient administration of the issuance of compulsory insurance certificates.
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