

No. 16 - Blue Cards/CLC Certificates 1969 and 1992 Civil Liability Conventions

December 1999

To: **TANKER OWNERS**

Dear Sirs

Blue Cards/CLC Certificates 1969 and 1992 Civil Liability Conventions

For the last two years two separate regimes have been in force: the 1969 Civil Liability Convention (CLC) and the 1992 CLC. In order to ensure worldwide trading it has been necessary for ships to carry on board both a 1969 and a 1992 CLC Certificate. Ships registered in a CLC State are able to obtain one of these two Certificates from their Flag State. It has been necessary to obtain the other Certificate from a different State. Most owners of ships flying the flag of a 1992 CLC State have obtained their 1969 CLC Certificates from the ship registries of either Malta or Panama. A problem arises for the year 2000 policy year since, for the reasons described below, it is expected that neither of these States will be able to issue 1969 CLC Certificates valid for the entire year.

Panama has ratified the 1992 CLC and denounced the 1969 CLC. Its denunciation will take effect on 11 May 2000. Malta is expected to ratify the 1992 CLC and denounce the 1969 CLC this month. It has proved difficult to find a 1969 CLC Ship Registry willing to issue 1969 CLC Certificates to foreign vessels.

The International Maritime Organisation

This problem was debated at the recent Assembly of the International Maritime Organisation (IMO). The IMO passed a Resolution inviting the 1969 CLC States not to require ships holding 1992 CLC Certificates to also hold 1969 CLC Certificates. Such States were urged to accept 1992 Certificates as meeting the requirements of the 1969 CLC.

The Effect of the IMO Resolution

1. Ships registered in 1992 CLC States need only obtain a 1992 CLC Certificate from their Flag State. This should be sufficient evidence of insurance even when calling at ports in a 1969 CLC State.
2. Ships flying the flag of a 1969 CLC State will need to obtain a 1969 CLC Certificate from their Flag State and a 1992 CLC Certificate from a 1992 CLC State, e.g. the United Kingdom.
3. Ships flying the flag of a State which is not party to either the 1969 CLC or 1992 CLC, should obtain a 1992 CLC Certificate from a 1992 CLC State, e.g. the United Kingdom. This then should be sufficient evidence of insurance when calling at ports in either a 1969 or a 1992 CLC State.

Recommendation

It is recommended that all ships carry on board a copy of the relevant IMO Resolution. This Resolution is attached to this circular as Annex 1. A list of countries which are parties to the 1969 and 1992 CLC is attached as Annex 2.

Yours faithfully

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

C A G Havers
Director

ANNEX 1

DRAFT FINAL RESOLUTION OF IMO ASSEMBLY OF 25 NOVEMBER 1999 ACCEPTANCE OF CLC INSURANCE CERTIFICATES

THE ASSEMBLY,

RECALLING article 15(j) of the Convention on the International Maritime Organization concerning the functions of the Assembly in relation to regulations and guidelines concerning maritime safety and the prevention and control of marine pollution from ships, and legal matters related thereto,

RECALLING also that at present there are in force two different and distinct regimes of limitation of civil liability in case of oil pollution damage, namely the regime established under the International Convention on Civil Liability for Oil Pollution Damage, 1969 (CLC 69) and that set out in the Protocol of 1992 to amend CLC 69 (1992 CLC Protocol).

NOTING that Article VII of CLC 69, as well as Article 7 of the 1992 CLC Protocol, make the provision of insurance compulsory for ships carrying more than 2,000 tons of oil in bulk as cargo and require the ships in question to carry a certificate issued by a State Party thereto as proof of compliance with this requirement.

UNDERSTANDING that a number of CLC 69 States Parties require ships flying the flag of States Parties to the 1992 CLC Protocol (the 1992 CLC ships) to be provided with a certificate issued in accordance with Article VII of CLC 69 (1969 CLC certificates),

FURTHER NOTING that, so far, the 1992 CLC ships have been able to call at ports of CLC 69 States Parties, because a number of CLC 69 States Parties were issuing to them, in accordance with their national practices 1969 CLC certificates.

RECOGNIZING that, in the near future, as a result of the accession of CLC 69 States Parties to the 1992 CLC Protocol, the 1992 CLC ships will no longer be able to obtain 1969 CLC certificates,

BEING AWARE that the ceiling of limitation of liability established by the 1992 CLC Protocol is higher than that established under the provisions of CLC 69,

FURTHER RECALLING that resolution 1 of the International Conference on the Revision of the 1969 Civil Liability Convention and the 1971 Fund Convention (the 1992 Conference), established a practice in respect of the issue and the

recognition of CLC certificates by the CLC 69 and the 1992 CLC Protocol State Parties,

APPRECIATING the efforts of the Organization to strengthen the accountability and responsibility of States as flag States.

DESIRING to assist ships to trade without any unnecessary delays.

HAVING CONSIDERED the recommendation of the Legal Committee at its eightieth session,

1. INVITES States Parties to CLC 69 not to require ships holding 1992 CLC certificates to obtain 1969 CLC certificates and to accept certificates issued under the provisions of Article 7 of the 1992 CLC Protocol as meeting the requirements of paragraph 11 of Article VII of CLC 69;
2. URGES States Parties to the CLC 69 to become parties to the 1992 CLC Protocol as soon as possible;
3. INVITES FURTHER CLC 69 States Parties to issue to 1992 CLC ships 1969 CLC certificates only if they are requested to do so by the States whose flag these ships are entitled to fly;
4. FURTHER URGES Member States of IMO which are not Parties to CLC 69 or 92 to encourage their shipowners to ensure that their Registry is notified of the issue of a CLC certificate to their ships under either CLC regime; and
5. REQUESTS the Secretary General of the Organization to intensify his efforts to ensure the wider acceptance of the 1992 CLC Protocol.

ANNEX 2

States Party to the CLC 1969¹

(as at 3 December 1999)

Albania, Antigua & Barbuda, Benin, Brazil, Brunei Darussalam, Cambodia, Cameroon, Chile, China (People's Republic of)^{2, 3, 4} Colombia, Costa Rica, Côte d'Ivoire, Djibouti, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Estonia, Fiji,⁴ Gabon, Gambia, Georgia, Ghana, Guatemala,² Guyana, Honduras, Iceland, India, Indonesia, Italy^{2, 4}, Kazakhstan, Kenya, Kuwait, Latvia, Lebanon, Luxembourg, Malaysia, Maldives, Malta, Mauritania, Mauritius, Morocco, Mozambique, Nicaragua, Nigeria, Panama⁴, Papua New Guinea, Peru², Poland, Portugal, Qatar, Russian Federation², Saint Kitts & Nevis², Saint Vincent & the Grenadines, Sao Tome and Principe, Saudi Arabia², Senegal, Seychelles⁴, Sierra Leone, Slovenia, South Africa, Sri Lanka⁴, Syrian Arab Republic², Tonga, Tuvalu, United Arab Emirates, Vanuatu⁴, Venezuela, Yemen, Yugoslavia.

¹ Although every attempt has been made to ensure the accuracy of the information listed below, Members intending to rely on the information should check with the relevant authorities.

² The Convention has been ratified with a declaration, reservation or statement.

³ The CLC 1969 applies to the Hong Kong Special Administrative Region with effect from 1 July 1997.

⁴ The CLC 1969 will cease to have effect in:

China (People's Republic of), including Hong Kong on 5 January 2000

Fiji on 30 November 2000

Italy on 8 October 2000

Panama on 11 May 2000

Seychelles on 23 July 2000

Sri Lanka on 22 January 2000

Vanuatu on 18 February 2000

ANNEX 2

States Party to the CLC 1992¹

(as at 3 December 1999)

Algeria, Australia, Bahamas, Bahrain, Barbados, Belgium, Belize, Canada, China⁴ (People's Republic of), Croatia, Cyprus, Denmark, Dominican Republic⁴, Egypt, Fiji⁴, Finland, France, Germany², Greece, Grenada, Iceland, India⁴, Indonesia⁴, Italy⁴, Ireland², Jamaica, Japan, Korea² (Republic of), Latvia, Liberia, Marshall Islands, Mexico, Monaco, Netherlands, New Zealand², Norway, Oman, Panama⁴, Philippines, Seychelles⁴, Singapore, Spain, Sri Lanka⁴, Sweden, Switzerland, Tunisia, United Arab Emirates, United Kingdom³, Uruguay, Vanuatu⁴, Venezuela.

¹ Although every attempt has been made to ensure the accuracy of the information listed below, Members intending to rely on the information should check with the relevant authorities.

² The Convention has been ratified with a declaration, reservation or statement.

³ The United Kingdom has also declared its accession to be effective in respect of the Bailiwick of Jersey; The Isle of Man; Bermuda; Falkland Islands; Montserrat; South Georgia & the South Sandwich Islands; Anguilla; Bailiwick of Guernsey; British Antarctic Territory; British Indian Ocean Territory; Pitcairn, Henderson, Ducie & Oeno Islands; the Sovereign Base Areas of Akrotiri and Dhekelia on Cyprus; Turks & Caicos Islands; British Virgin Islands; St Helena and its Dependencies, Cayman Islands, Gibraltar.

⁴ The CLC 1992 will enter into force in:

China, (People's Republic of) including Hong Kong, on 5 January 2000

Dominican Republic on 24 June 2000

Fiji on 30 November 2000

India on 15 November 2000

Indonesia on 6 July 2000

Italy on 16 September 2000

Panama on 18 March 2000

Seychelles on 23 July 2000

Sri Lanka on 22 January 2000

Vanuatu on 18 February 2000