

No. 5 2008/2009 - Entry into force of the Bunkers Convention - Update on State Certification and issuance of Blue Cards

July 2008

Dear Sirs

Entry into force of the Bunkers Convention – update on State Certification requirements and issuance of Blue Cards.

Members have previously been advised that the International Convention on Civil Liability for Bunker Oil Pollution 2001 (the “Bunker Convention”) will enter into force in State Parties (updated list below) on 21 November 2008. As already notified, Clubs in the International Group have agreed to issue the required Bunker Convention “Blue Cards” to enable State parties to issue certificates.

State certification

(i) Ships registered in State Parties

Ships registered in a State Party need only obtain a State certificate from that State. This will be treated as evidence of insurance when calling at any port or terminal in any State Party. The State certificate will be issued against the provision of a Blue Card issued by the Club in the required form (see below). Members with ships registered in a State Party are recommended to contact the authorities in that State in order to confirm the application procedures for Bunker Convention certificates.

(ii) Ships registered in non-State Parties

Ships registered in a State which is not party to the Convention must obtain a State issued certificate from a State Party to the Convention. The Secretariat of the International Group and the International Chamber of Shipping have been in contact with the administrations in a number of State Parties to identify those States willing to issue certificates for ships which are not registered under their flag. The International Group has also submitted papers to the March and June sessions of the IOPC Funds to raise awareness of the need for State Parties to agree to issue the certificates to ships registered in non-State Parties. States are, to date, reluctant to agree to issue certificates for ships registered in non-State Parties unless calling at their ports because of the administrative burden involved in issuing the necessary, and large, number of certificates involved.

The International Group and the International Chamber of Shipping are continuing discussions with a number of State Parties to seek agreement that they will issue the certificates to all ships having a gross tonnage greater than 1000 as soon as possible irrespective of whether they are calling at their ports after the entry into force of the Convention. Until these discussions are concluded and a satisfactory outcome is reached, it will not be possible for the Club to issue Blue Cards to ships registered in a non-State Party since the Blue Card is required to be addressed to a State Party that is willing to issue the certificates for such ships. Members will be kept informed of progress in these discussions.

Issue of Blue Cards

To comply with the Bunker Convention requirements the Blue Card will need to state the name of the ship, the ship's distinctive number or letters (or call sign), the port of registry, the IMO number and the name and full address of the principal place of business of the registered owner. Following legal advice received on the relevant address for insertion in Blue Cards, Clubs will insert the address of the registered office unless advised of an alternative address by the Member.

In view of the early entry into force of the Convention, it is recommended that Members start the application process as soon as possible.

Data collection for preparation of Blue Cards

Members requiring Blue Cards (both owners of ships flying flags of State Parties and those not flying flags of State Parties) should contact their underwriter at the Manager's offices as soon as possible, confirming for each vessel the data listed above.

Upon receipt of the request the Blue Cards will be sent to the Members whose ships fly the flags of State Parties.

For ships not flying flags of State Parties, Blue Cards will be issued once it is known to which State Party they should be addressed. When it is known which State Parties have agreed to issue certificates to ships not flying their flags we will advise the Members and Blue Cards will be issued after receiving Members' instructions on their choice of such State.

Certification and pooling of liability under certificates

Members have also previously been informed that the Club will issue Blue Cards on condition that the Member agrees that where any payment by the Association under the certificate is in respect of war risks, the Member shall indemnify the Association to the extent that such payment is recoverable under the Member's P&I war risks policy or would have been recoverable if the Member had maintained and complied with the terms and conditions of a standard P&I war risks insurance policy, and that there shall be assigned to the Association all the rights of the Member under such insurance and against any third party. By requesting a Blue Card the Member will be deemed to have agreed these conditions.

It is therefore necessary that all Members requesting Blue Cards ensure that they have in place P&I war risks cover on standard terms with a separate limit for P&I liabilities. Members should also contact their primary war risks underwriters to notify them of the assignment of rights/recovery under the policy.

States Party to the Convention (as at July 2008)

Bahamas, Bulgaria, Croatia, Cyprus, Estonia, Germany, Greece, Jamaica, Latvia, Lithuania, Hungary, Luxembourg, Marshall Islands, Norway, Poland, Samoa, Sierra Leone, Singapore, Slovenia, Spain, Tonga and the United Kingdom.

All Clubs in the International Group of P&I Clubs have issued similar circulars.

Yours faithfully

For: **West of England Insurance Services**
(Luxembourg) S.A.
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A Paulson
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