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25 April 2008

## **TO ALL MEMBERS**

Dear Sirs

### **Entry into force of the Bunkers Convention – certification requirements and issuance of Blue Cards and State certificates**

The International Convention on Civil Liability for Bunker Oil Pollution 2001 (the “Bunkers Convention”) has now been ratified by the required number of States, with the requisite combined gross tonnage, and will enter into force in State Parties on 21 November 2008.

#### **Certification requirements**

The Convention provides a liability, compensation and compulsory insurance system for the victims of oil pollution damage caused by spills of bunker oil. The Convention will make the shipowner<sup>1</sup> liable to pay compensation for pollution damage (including the costs of preventive measures) caused in the territory, including the territorial sea, of a State Party, as well as its exclusive economic zone or equivalent area.

Registered owners of any seagoing vessel and seaborne craft over 1000 gross tonnage, of any type whatsoever, and registered in a State party or entering or leaving a port in the territory of a State party, will be required to maintain insurance that meets the requirements of the Convention and to obtain a certificate issued by a State party attesting that such insurance is in force. The State issued certificate must be carried on board at all times.

The regime closely follows the well established liability and insurance provisions which apply under the original Civil Liability Convention concerning pollution by tanker cargo (CLC).

#### **Certification and pooling of liability under certificates**

Following consideration by the Association’s Committee and the Boards of other Club members of the International Group, it has been agreed that the Association and those other Clubs will issue the required Bunkers Convention “Blue Cards” to enable signatory States to issue certificates from August 2008. Notwithstanding that the Clubs do not currently provide shipowners with primary P&I war risks cover, it has been further agreed that all liabilities incurred as a consequence of issuing Blue Cards will be shared amongst the International Group Pool, including otherwise excluded liabilities, up to, but not exceeding, the amount of the insurance so certified. Exclusions will continue to apply in the usual way in respect of liabilities arising otherwise than under the Convention. The Convention provides that liability shall not exceed limits calculated in accordance with LLMC 1976 as amended and also contains an exclusion of liability for acts of war (although the definition of war does not include terrorism) and for damage wholly caused by the intentional act of a third-party.

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<sup>1</sup> Defined as including the registered owners, bareboat charterers, managers and operators.

The Association will issue Blue Cards on condition that the Member agrees that where any payment by the Association as a consequence 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 this condition.

It is therefore necessary for all Members requesting Blue Cards to ensure that they have in place P&I war risks cover on standard terms with a separate limit for P&I liabilities.

### **Issuance of State certificates**

The International Group submitted a paper in February to the Executive Committee of the IOPC Funds pointing out that States needed to put in place administrative procedures for the issue of a substantial number of certificates.

With regard to State issued certificates attesting that the required insurance cover is in force, vessels registered in a State party need only obtain a certificate from the relevant authority in that State. This will be treated as evidence of insurance when calling at any port or terminal in that or any other State party.

Vessels registered in a State which is not party to the Convention should obtain a State issued certificate from a State party to the Convention. Ideally, if calling at a port or terminal in a State party, this should be obtained from the issuing authority of that particular State. Alternatively, in the event that this is not possible, a State issued certificate may be obtained from the issuing authority of another State party. The Secretariat of the International Group is in contact with the administrations in a number of party States to identify those willing to issue certificates for vessels which do not fly their flag and will provide further information in due course. The Group's website is shown below.

States have already been informed that there is a growing practice amongst Clubs in the International Group to issue Blue Cards in electronic format. Electronic Blue Cards can be forwarded by Members in electronic format to the relevant authority of the State issuing the State certificate. If the issuing authority deems this to be unacceptable, and requires the Blue Card in a hard copy format, then the latter version can be provided on request.

A notice similar to this circular will be available very shortly on the International Group's website at [www.igpandi.org/](http://www.igpandi.org/) (under News and Information) and further information, including that referred to above, should appear there in due course too.

Yours faithfully  
A BILBROUGH & CO LTD  
(MANAGERS)

### **States Party to the Convention (as at April 2008)**

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