



Client Adviser

The “Bunkers Convention”

The Bunkers Convention or, to use its full name, *The International Convention on Civil Liability for Bunker Oil Pollution 2001*, will enter into force in signatory states on Friday 21 November 2008. This Adviser is a summary of the situation as at the first week of September 2008 and has been compiled for shipowners’ guidance ahead of the need to comply with the stipulated regulations. Inevitably, certain information contained herein is open to change – typically certain flag states might still ratify the Convention.



Which shipowners are directly affected?

Those who have:

- Any ships of more than 1,000 gross tonnage
- Any ships registered in a signatory state
- Any ships entering or leaving a port in the territory of a signatory state

The owners of any such vessel(s) will be required to maintain insurance¹ that meets the requirements of

the Convention and obtain a certificate issued by a signatory state confirming that insurance for pollution liabilities has been arranged.

The process of certification is not dissimilar to that already in place for persistent oil tankers under the Civil Liability Convention (CLC). It follows that this Adviser is primarily targeted at the owners and operators of clean tankers, gas carriers or dry cargo vessels who have hitherto not been required to provide evidence of insurance for pollution liabilities under an international convention.

¹Or other financial security per Article 7 of the Bunkers Convention (1)

Background

The CLC regime is limited in its application to pollution damage caused by ship's bunkers from laden tankers carrying persistent oil cargoes. The 1992 protocol extended CLC to include tanker vessels that are in ballast, but only if there are residues of the previous cargo on board. CLC does not respond to pollution claims arising from the bunker spills of dry cargo vessels or tanker vessels carrying 'clean' products (e.g. Liquefied Natural Gas) and this was a concern to a number of coastal states.

The IMO (International Maritime Organisation) views the adoption of the Bunkers Convention as "the last significant gap in the international regime for compensating victims of oil spills from ships" and it will come into force on **Friday 21 November 2008**, now that the required number of states have ratified it.

“the last significant gap in the international regime for compensating victims of oil spills from ships”

IMO

The key components of the Bunkers Convention are:

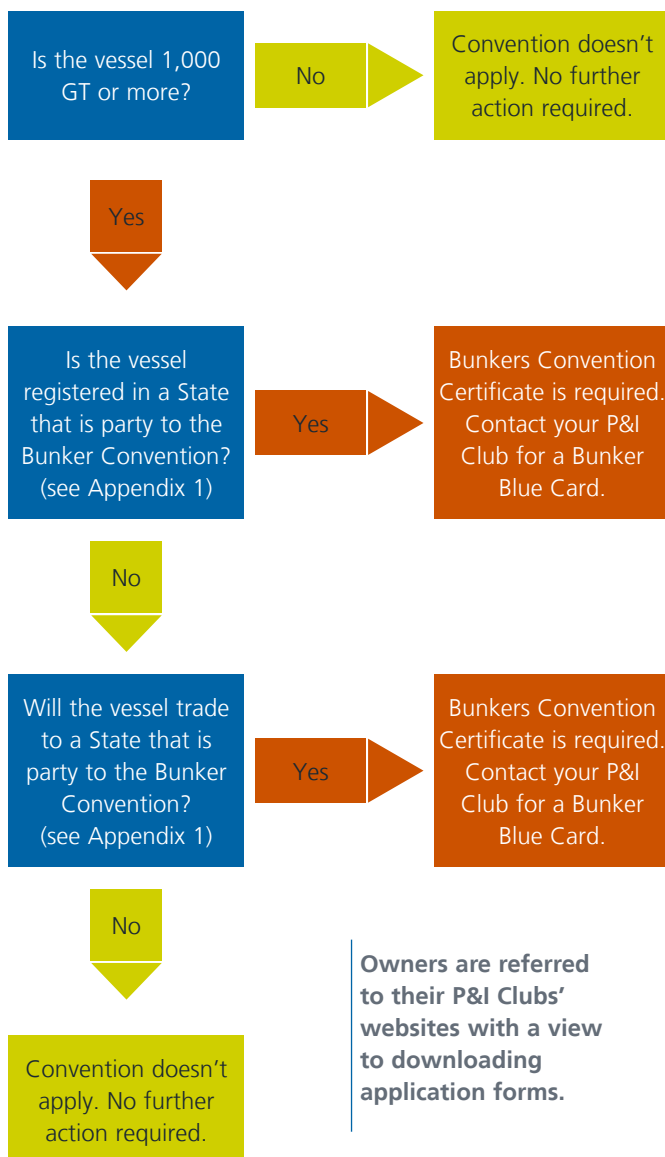
- The need for registered owners² to maintain [obligatory] insurance or other financial security in respect of pollution damage.
- The Convention provides for the strict liability of the shipowner in return for a limit on the shipowner's liability established under the applicable national or international limitation regime. However, in all cases, this may not exceed an amount calculated in accordance with the Convention on Limitation of Liability for Maritime Claims (LLMC) 1976, as amended³; formula reproduced at appendix 4.
- The shipowner shall be liable for pollution damage unless the damage results from an act of war, was wholly caused by the act or the omission of a third party with the intent to cause damage or was due to the negligence of any government or other authority responsible for the maintenance of navigational aids⁴.
- Any claim for compensation for pollution damage may be brought directly against the insurer⁵.
- The definition of shipowner extends the reach of the Convention to include the ship's managers and operators on a joint and several liability basis. As a result, time charterers might experience an increase in the claims brought against them, albeit they are under no more obligation now to carry insurance or arrange certification than before.

A list of signatory states is included at the end of this Adviser in Appendix 1.

²Article 1 (4) | ³Article 7 (1) | ⁴Article 4 | ⁵Article 7(10)

Certification requirements and procedures

Figure 1: Certification procedure



Most underwriters of Protection and Indemnity (P&I) risks have agreed to issue Bunker Convention 'Blue Cards' that will enable signatory states to issue certificates. The International Group of P&I Clubs has said that they will start to issue 'Blue Cards' for those vessels that are registered in a signatory state from August, 2008. The authorities in signatory states will therefore be under tremendous pressure to issue substantial numbers of certificates before the Bunker Convention comes into force on Friday 21 November 2008.

Some concern has been expressed about the administrative capacity of some signatory states to process the huge number of certificates that will be required.

We therefore recommend that those shipowners who will require a certificate contact the necessary authorities as soon as possible.

The 'Blue Cards' issued by P&I underwriters are expected to be valid for the period of the entry, which in most cases will be until Friday 20 February 2009. It is expected that certificates will be valid until the expiry of the 'Blue Card' although some states may prefer to issue certificates for a longer period in order to spread the burden of issuing huge numbers of certificates. P&I Clubs can not issue 'Blue Cards' beyond the end of the policy year in the absence of any commitment to extend the entry beyond the current terms. Therefore, shipowners, their P&I Clubs and signatory states will be obliged to re-certify annually.

For those ships that are registered in states that are not signatories to the Bunker Convention, but are expected to visit the port of a signatory state, provisional arrangements will be necessary. The P&I Clubs have said that they are ready to issue their 'Blue Cards' when the identity of those signatory states who are prepared to issue certificates on behalf of non-signatory states is known. Marsh is confident that the clubs will be in a position to issue 'Blue Cards' promptly upon demand. However, until

signatory states decide whether they will 'sponsor' vessels from non-signatory flag states and whose certificates each state will accept, there is little that shipowners can do to prepare; beyond ensuring their P&I insurer's records are accurate.

We expect certificates issued on behalf of non-signatory states to be valid for one year (or until the end of the first insurance policy year) but it has been reported⁶ that the validity of certificates for vessels registered in non-signatory states might be restricted in time. Should this situation arise, shipowners will be required to apply for certificates per port call to a signatory state. This is hopefully no more than an interim measure in view of the administrative burden and cost that it will impose on shipowners and the signatory states.

War P&I insurance

The International Group of P&I Clubs has confirmed that for the 2008/09 policy year Clubs will continue to offer cover for war P&I risks in excess of their members' hull values⁷, up to a limit of USD500 million. With limited exemption for war risks under the Convention, Group P&I Clubs, as the insurers open to direct action, will be exposed in the first instance to the primary war P&I risk, a risk normally covered by an extension to a vessel's hull war insurance.

Earlier this year the Group P&I Clubs said that they would issue 'Blue Cards' on condition that their members agreed to indemnify the Club in respect of any primary war P&I risks that the Club incurs under a 'Blue Card'. An assignment of the primary war policy was mooted. However, this would conflict with the previously established interests of mortgagees and so this requirement is not being pursued.

Most Clubs are adopting the pragmatic stance that an application to a Club or insurer for a Bunkers Convention Blue Card is equivalent to acknowledging the Club's right to the recovery of any losses they might have paid in response to direct action from a signatory state. Such recovery would be presented against the specific primary war policy or, for those shipowners who do not currently buy primary war P&I cover, they must understand that such a policy is deemed to be in place and that they will be obliged to indemnify their P&I Club in the event that the Club was to incur a liability under the 'Blue Card'. ■

⁶reported by the Republic of Cyprus, Ministry of Communications and Works, circular 13/2008

⁷More precisely: the lower of Hull Value and USD100 million

Appendix 1

Signatory states that have ratified the Bunkers Convention

- Bahamas
- Bulgaria
- Croatia
- Cyprus
- Denmark
- Estonia
- Germany
- Greece
- Hungary
- Jamaica
- Latvia
- Liberia
- Lithuania
- Luxembourg
- Marshall Islands
- Norway
- Poland
- Samoa
- Sierra Leone
- Singapore
- Slovenia
- Spain
- Tonga
- United Kingdom

Appendix 2

Certification

From what we gather, various national authorities have indicated they are willing (upon payment of the requisite fees) to consider issuing the certificates. The following list is submitted for guidance and is based on Marsh's discussions with various P&I Clubs who are debating the issue with the national authorities. However, this list should not be relied upon as definitive. Furthermore, shipowners should be aware that these authorities might impose numerical or flag restrictions.

- UK
- Cyprus (but with the possible restriction on vessels of Panamanian Flag)
- Liberia
- Germany (but only for vessels with demonstrable German interests)
- Singapore (on a regional basis only)
- Cook Islands (may consider Panamanian vessels)

Liberia's recent ratification of the Convention plus their established capacity to provide CLC certificates will probably prove to be the most practical source of certificates to enable compliance with the Bunkers Convention.

Appendix 3

Signatory state contacts are as follows:

Bahamas

The Bahamas Maritime Authority
120 Old Broad Street
London
EC2N 1AR
United Kingdom

Tel. +44 20 7562 1300
Fax. +44 20 7614 0650

The Bahamas Maritime Authority
Bahamas House
231 East 46th Street
New York
New York 10017
United States of America

Tel. +212 829 0221
Fax. +212 829 0356

The Bahamas Maritime Authority
PO Box N4679
Nassau
Bahamas

Tel. +242 394 3024
Fax. +242 394 3014

Email: reg@bahamasmaritime.com
Web: www.bahamasmaritime.com

Bulgaria

Capt. Nikolay APOSTOLOV
Executive Director
BULGARIAN MARITIME
ADMINISTRATION
9, Dyakon Ignatii Street
Sofia 1000, BULGARIA

Tel: +359 2 930 09 10
Fax: +359 2 930 09 20
Email: bma@marad.bg
Web: <http://www.marad.bg>

Croatia

Mr Stjepan Vuk (Head of Department for
Safety of Navigation)
Ministry of the Sea, Transport and
Infrastructure
Safety of Navigation, Maritime
Environment and Inland Waters
Protection Directorate
10 000 ZAGREB, Prisavlje 14,CROATIA

Tel: +385 1 6169 380
Fax: +385 1 6169 069
Email: stjepan.vuk@pomorstvo.hr
Web: www.mmpi.hr

Cyprus

Director
Department of Merchant Shipping
Registrar of Cyprus Ships
Kyllinis Street, Mesa Geitonia
CY-4007 LIMASSOL
Cyprus

Tel: +357 25 848 100
Fax: +357 25 848 200
Email: maritimeadmin@dms.mcw.gov.cy
Web: www.shipping.gov.cy

Contact person(s):
Tel: + 357 25 848 237

Denmark

Mr Jesper Mandrup Timler
Danish Maritime Authority
38 C, Vermundsgade
DK-2100 Copenhagen

Tel: +45 39 17 45 88
Email: jmt@dma.dk
Web: <http://www.dma.dk/sw23247.asp>

Estonia

Estonian Maritime Authority
Valge 4
11413 Tallinn
Estonia

Tel: + 372 205 500
Fax: + 372 6205 506
Email: eva@vta.ee
Web: www.vta.ee/atp/

Germany

Grit Tüngler
Bundesamt für Seeschifffahrt und
Hydrographie
Bernhard – Nocht - Str. 78
Postfach 30 12 20
20359 Hamburg

Information on applying for certificates
can be obtained from:
[http://www.bsh.de/en/Maritime_](http://www.bsh.de/en/Maritime_shipping/Commercial_shipping/Liability_for_oil_pollution_damage/index.jsp)
[shipping/Commercial_shipping/Liability_](http://www.bsh.de/en/Maritime_shipping/Commercial_shipping/Liability_for_oil_pollution_damage/index.jsp)
[for_oil_pollution_damage/index.jsp](http://www.bsh.de/en/Maritime_shipping/Commercial_shipping/Liability_for_oil_pollution_damage/index.jsp)

Application forms for Bunkers certificates
should be downloaded in the first
instance from:
[http://www.bsh.de/de/Antraege/](http://www.bsh.de/de/Antraege/Oelhaftung/Antrag_Bunkeroel.doc)
[Oelhaftung/Antrag_Bunkeroel.doc](http://www.bsh.de/de/Antraege/Oelhaftung/Antrag_Bunkeroel.doc)

Contact details for queries:
Tel: +49(0) 40 3190 7140
Fax : +49(0) 40 3190 5000
Email: Grit.tuengler@bsh.de
Web: www.bsh.de

Greece

Central Harbour Master's Office of
Piraeus
Marine Environment Protection
Department
50 Akti Miaouli Str.
GR-185 10 PIRAEUS
Greece

Tel: +302104593172
Fax: +302104183743
Email: tptap@mail.yen.gr

Contact person:
Lieutenant (HCG) Koutsodontis Nikolaos

Hungary

National Transport Authority
Directorate of High Priority Affairs
Department for Shipping Proceedings
Shipping Safety and Registry Unit
1066 Budapest

Teréz krt. 62. postacím :
1387 Budapest 62, Pf : 30

Tel: + 36 1 4741 755
+ 36 1 4741 795
Email: hajouzembizto.hhf.kui@nkh.gov.hu

Jamaica

Main administrative office
Maritime Authority of Jamaica
40 Knutsford Boulevard
Kingston 5, Jamaica, W.I

Tel: +876-754-7260 or 876-929-2201
Fax: +876-754-7256
Email: registrar@jamaicaships.com
Web: <http://jamaicaships.com/>

Latvia

Mr Raimonds Vingris - Head of the
Register
Maritime Administration of Latvia
Latvian Ship Register
5 Trijadibas Str., Riga, LV-1048, Latvia
Tel.: +371 67062162 / 67062165
Fax: +371 67062161
Email: kr@lja.lv
Web: <http://www.jurasadministracija.lv/eng/>

Liberia

Liberian International Ship & Corporate
Registry
ATTN: Bunker CLC Applications
8619 Westwood Center Drive, Suite 300
Vienna, Virginia 22182, U.S.A.

Tel: 1+ 703 790 3434
Fax: 1+ 703 790 5655
Email contact: clc@lisr.com

Lithuania

Maritime Safety Administration
J. Janonio St. 24
92251 Klaipėda
Lithuania

Tel: + 370 46 469 602
Fax: + 370 46 46 9600
Email: msa@msa.lt
web: www.msa.lt/Old/eng/index.htm

Luxembourg

Commissariat aux affaires maritimes
19-21 Boulevard Royal
L-2449 Luxembourg
LUXEMBOURG

Tel.: +352 2478 4453
Fax: +352 29 91 40
Email: cam@cam.etat.lu

Norway

Norwegian Maritime Directorate
Sjøfartsdirektoratet
P.O Box 2222
N-5509 Haugesund
Norway

Phone +47 52 74 50 00
Fax +47 52 74 50 01
E-Mail : postmottak@sjofartsdir.no

Poland

Department for Maritime Transport and
Inland Navigation
4/6 Chałubiński Street, 00-928
Warsaw
Poland

Tel: 00 4822 630 15 40
Fax: 00 4822 630 15 49
Web:www.en.mi.gov.pl/2-482076faaa403.htm

Samoa

Taulapapa Captain Maselino Sitagata
Tominiko
Head of the Maritime Division
The Ministry of Works Transport and
Infrastructure
P.O. Box Private Bag, Apia, Samoa

Tel: 685 21611,
Fax: 685 28688,
email: maselino@mwti.gov.ws

Sierra Leone

Sierra Leone International Ship Registry
1010 Common St, Suite 2533
New Orleans, LA. 70112
USA

Tel: +1 (504) 636-1387
Fax: +1 (504) 636-1388
Email: registrar@sierraleonanship.com
Web: www.sierraleonanship.com/cms/

Singapore

Mr Wong Kai Cheong, Manager
(Registry & Manning), or
Ms Emily Sihab, Asst Mgr (Ship Registry)
Maritime and Port Authority of
Singapore(MPA)
Shipping Division, Singapore Registry of
Ships
460 Alexandra Road
PSA Building, #21-00
Singapore 119963

Mr Wong Kai Cheong, Manager
(Registry & Manning)
Tel: +65 6375 6236
Fax: +65 6375 6231
Email: kai_cheong_WONG@mpa.gov.sg

Ms Emily Sihab, Asst Mgr (Ship Registry)
Tel: +65 6375 6227
Fax: +65 6375 6231
Email: emily_shalawati_bte_sinab@mpa.gov.sg

Slovenia

Slovenian Maritime Administration
Ukmarjev trg 2
SI-6000 Koper
Slovenia

Tel: +386 5 6632 100
Fax: +386 5 6632 102
Email: ursp.box@gov.si
Web: www.up.gov.si/en

Spain

Mr. Fernando Blanco
Head of Dumping and Marine Pollution
Section
Direction General for Merchant Marine
C/Ruiz de Alarcon, 1
28071-1
Madrid

Tel: +34 91 597 9181
Fax: +34 91 597 9235
Email: fblanco@fomento.es

Tonga

William Leslie Simpson Johnson
Acting Secretary of Marine & Ports
Ministry of Marine & Ports
PO Box 397
Nuku'alofa
Tonga

Tel: +67622555/26235
Fax: + +67626234/24267
Email: marine@kalianet.to

The Marshall Islands

Maritime Administrator for The Republic
of the Marshall Islands
Marshall Island Maritime Administration
11495 Commerce Park Drive
RESTON, VA 20191
Tel: + 1 703 620 4880
+ 1 703 3762 (after hours emergency)
Fax: + 2 703 476 8522
Email: maritime@register-iri.com
Internet : www.register-iri.com

UK

CLC Bunkers 2/13
Maritime and Coastguard Agency
Spring Place
105 Commercial Road
Southampton
SO15 1EG
UK

Tel: +44 (0)23 80329110
Fax : +44 (0) 23 8032 9447
Email: bunkers@mcga.gov.uk
Web: [http://www.ukshipregister.co.uk/
ukr-home/forms.htm](http://www.ukshipregister.co.uk/ukr-home/forms.htm)

Contact person:
Richard Tong
Tel: + 44 (0)23 80 329202

General Enquiries:
infoline@mcga.gov.uk



Appendix 4

LLMC Limits

1976 Limits

Personal Injury & Death	Tonnage	SDR*
Tonnage not exceeding	500	333,000 in full
AND for each ton from	501- 3,000	500 per ton
AND for each ton from	3,001-30,000	333 per ton
AND for each ton from	30,001-70,000	250 per ton
AND for each ton from	70,001 and above	167 per ton

Property claims	Tonnage	SDR
Tonnage not exceeding	500	167,000 in full
AND for each ton from	501- 30,000	167 per ton
AND for each ton from	30,001-70,000	125 per ton
AND for each ton from	70,001 and above	83 per ton

1996 limits

Personal Injury & Death	Tonnage	SDR
Tonnage not exceeding	2000	2,000,000 in full
AND for each ton from	2000 - 30,000	800 per ton
AND for each ton from	30,001 - 70,000	600 per ton
AND for each ton from	70,001 and above	4000 per ton

Property claims	Tonnage	SDR
Tonnage not exceeding	2000	1,000,000 in full
AND for each ton from	2000 - 30,000	400 per ton
AND for each ton from	30,001 - 70,000	300 per ton
AND for each ton from	70,001 and above	200 per ton

For more information please contact:

marinepractice@marsh.com

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