



## **BUNKERS CONVENTION – Entry into force 21<sup>st</sup> November, 2008**

### **Certification Requirements and the issuance of Blue Cards and State Certificates**

The International Convention on Civil Liability for Bunker Oil Pollution 2001 (the "Bunkers Convention") will enter into force on 21<sup>st</sup> November 2008.

As at June 2008, the following States are party to the Convention:

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.

#### **Certification Requirements**

The Convention will make the shipowner (defined as including registered owners, bareboat charterers, managers and operators) liable to pay compensation for oil pollution damage and preventative measures caused in the territorial sea, including its exclusive economic zone (EEZ), of a State party.

The Convention provides that owners of vessels over 1,000 gross tons registered in a party State or entering or leaving a port in the territory of a party State, will be required to maintain insurance meeting the requirements of the Convention. A Certificate is to be obtained from a party State attesting that such insurance is in force. This Certificate should be carried on board the vessel at all times.

The Convention provides that liability under the Certificate shall not exceed that as calculated in accordance with the LLMC 1976 as amended and though it excludes liability arising out of acts of war and intentional acts of third parties, the scope does not specifically exclude liability for acts of terrorism.

#### **Blue Cards**

British Marine is able, upon request, to issue "Blue Cards" to enable party States to issue Certificates from August 2008.

Arrangements are in place for British Marine to cover, at terms to be agreed, an Assured's liability for primary P&I war risks and to offer standard P&I war risk insurance in excess of hull value should such insurance not already be in place.

If war risks insurance is not placed with British Marine, it will be a requirement to the issue of a Blue Card that the Assured agrees to indemnify British Marine to the extent that any payment made under the Certificate for war risks is recoverable or ought to be recoverable under the terms of the Assureds war risk policy and, the Assured assigns all rights under such policy and as against any third party.

This will be required because the Blue Cards issued by British Marine will be a guarantee to pay from the ground up all claims arising under the Convention including those from a P&I war risk including acts of terrorism.

It is necessary, therefore that an Assured has in place both primary and excess P&I war risk insurances in order that a Blue Card may be issued.

#### **Issuance of State Certificates**

Vessels registered in a State that is party to the Convention need only obtain a State issued Certificate from that State.

Vessels registered in a State that is not a party to the Convention should obtain a State issued Certificate from a State that is party to the Convention. At this time there appears to be no published procedure as to how this particular approach will be adopted in practice and which Flag State administrations will be willing to issue Certificates on behalf of States not party to the Convention. Further information will be provided in due course in this respect.