ASSURANCE FORENINGEN LTD.
Protection & Indemnity Association

"Said to Contain"

Our New York lawyers, Global Corporate Services Inc, have drawn to the Managers attention a recent article that helps to clarify the acceptability or otherwise of the practice of clausing bills of lading with the term "said to contain" for cargo destined for the USA.

As Members may be aware, the requirement to provide prior notification of goods entering the USA dates back to the Tariff Act of 1930. This act was later implemented in Part 4 of the Code of Federal Regulations in the 1970s; however, this regulation was not strictly enforced by the US Customs and Border Protection Service. Following the terrorist attacks on the World Trade Centre the issue of cargo manifests and documents covering goods entering the USA once again came under the spotlight. The Trade Act 2002 (the "Act") was enacted, in part, as a response to counter the terrorist threat. Under this Act the prohibition on the use of the phrase "said to contain" on cargo manifests was unchanged but the Act also introduced data elements which required a precise description of cargo originating outside the USA and which was being imported into the country to be given on manifest documents.

The Act and Federal Regulations refer to cargo manifests and cargo declarations and there was some doubt as to whether they also applied to bills of lading. Naturally, this caused concern to carriers within the container trade as without the phrase "said to contain" they felt that it left them exposed to potential shortage claims in instances where they had not stuffed the containers and therefore had no knowledge of the containers' contents. In passing it can be noted that there are no specific penalties for violating the ban on the phrase but the US Customs and Border Protection Service can prevent or delay the unloading of cargo. Civil and criminal breaches of the statute can render the wrongdoer liable to either a fine of US$5,000 or more and /or imprisonment.

Our lawyers have informed the Managers of an article that appeared in The Journal of Commerce which reported that the TT Club had recently raised this issue with the US Customs and Border Protection Service. The US Customs and Border Protection Service are reported to have stated that the prohibition of the phrase only applies to cargo manifests for cargoes destined for the USA under the Automated Manifest System. Indeed Global Corporate Services Inc' informs us that they know of no regulation or statute which prohibits the use of the phrase in bills of lading.

The Act and implementing regulations require carriers to provide an accurate description of the cargo carried within the container. Lawyers state that as long as this description is included on the bill of lading then it is possible for the phrase "said to contain" to be pre-fixed to the bill of lading description thereby providing a measure of protection to potential shortage claims.

P E Spendlove
Managing Director

NEWS

USA: New Massachusetts Oil Spill Act

The State of Massachusetts has recently enacted a new law in respect of pollution in Massachusetts waters.

The new act, entitled An Act Relative To Oil Spill Prevention And Response In Buzzards Bay And Other Harbours And Bays Of The Commonwealth (the Act) was signed on 4 August 2004 and has immediate effect.

We have been advised by attorneys LeBoeuf, Lamb, Greene & MacRae that the main provisions of the Act are as follows:

Vessels entering state waters for the purpose of transporting ,discharging or receiving a cargo of oil, hazardous material or hazardous waste will now need to establish financial security in the amount of US$1 billion, although discretionary exceptions may be made in certain circumstances. These may include double hulled vessels and those with a good safety record. Vessels with a capacity of under 6,000 barrels must have financial assurance certification for US$5 Million.

It is expected that the financial security provisions will follow the Californian model in which case production of a P&I Certificate of Entry from an International Group Cub is likely to be an acceptable method of meeting the requirements of the new Act.

Any person responsible for discharging pollutants into state waters will face a civil penalty of up to US$50,000 per day. Further civil penalties of up to US$10,000 or US$25,000 respectively per day may be imposed for violation of new alcohol /drug testing and travel route requirements. In addition, the Act introduces graduated civil and criminal penalties for deliberate or reckless pollution.

Other provisions include the implementation of a new vessel traffic system in Buzzards Bay and other areas and it will be compulsory for vessels to sail on recommended routes. In “areas of special interest” vessels may require a tugboat escort.

The State will also levy a two cent per barrel fee on oil receipts to establish a US$10 million pollution fund.

The Massachusetts Department of Environmental Protection has recently issued the attached fact sheet which highlights the most important provisions of the new act. Although the validity of a Club Entry Certificate as a means of establishing financial security has not been formally confirmed, members intending to enter or transit Massachusetts waters should send a copy of the vessel’s Certificate of Entry plus a copy of the oil pollution limitation of cover clause set out on pages 85 and 86 of the current Club P&I (Class 1) Rule Book to Mr. William Harkins at the Massachusetts Department of Environmental Protection (DEP) at the address set out on the first page of the attached fact sheet. A copy of the Certificate of Entry and the letter sent to the DEP should be kept on board the vessel.

Please contact the Managers if any further information is required.

P E Spendlove
Managing Director

ASSURANCE FORENINGEN LTD.
Protection & Indemnity Association

Notice to Members No.16 2003/2004

February 2004

Dear Sirs

USA – NEW AUTOMATED MANIFEST SYSTEM REGULATIONS

Members operating ships which trade to the United States will shortly be required to comply with new Automated Manifest System (AMS) regulations. In order to do so, those concerned will also need to obtain a Standard Carrier Alpha Code (SCAC) and an International Carrier Bond (ICB). The requirements enter into force on 4 March 2004. In view of the very short lead time, it is important that Members take action without delay.

Background

The US Maritime Transportation Security Act was introduced to improve the security of cargo shipments entering or leaving the United States by sea, air, rail or truck. The Act passed into law in 2002 and requires the mandatory submission of cargo manifest information by electronic means. The US Bureau of Customs and Border Protection (CBP) was charged with implementing the new law and a Final Rule was published a short time ago setting out the details.

Application

The AMS regulations will affect all ships bringing cargo into US ports including all US non-contiguous and island territories, even if the cargo is not to be discharged in the US and is to be consigned to foreign ports. It is possible that the regulations may not apply in situations where a customs entry is not currently required (e.g. Louisiana Offshore Oil Port (LOOP), ship to ship transfer operations offshore), but this issue remains in need of clarification. An AMS declaration is also required for cargo loaded in US ports.

Carrier

The SCAC, ICB and AMS reporting requirements apply to ocean Carriers and to Non-Vessel Operating Common Carriers (see below). CBP has defined the Carrier as "the entity that controls the conveyance" such as the head owner or the bareboat charterer. It is thought that a manager may be construed as being the Carrier if it is clear that the manager has assumed responsibility for the operation of the ship, but this should be verified with CBP in the first instance. It is less clear whether a time charterer may be deemed to be the Carrier, and CBP may ask to see a copy of the charter party in order to reach a decision.

Although a time charterer may continue to issue bills of lading for and on behalf of the master, owner or bareboat charterer, the Carrier will be responsible for ensuring that cargo manifest declarations are made via AMS. It is essential to note that the Carrier's SCAC must be used on all bills of lading irrespective of the issuing party, representing a major departure from current practice.

A list of Carriers who are already AMS participants may be found at:

http://www.cbp.gov/ImageCache/cgov/content/import/carriers/ams_5fports_5flisting/seaams_2exls/v1/seaams.xls

Non-Vessel Operating Common Carrier (NVOCC)

A Non Vessel Operating Common Carrier is defined in 19 CFR §4.7(b)(3)(ii) as "a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier. The term 'non-vessel operating common carrier' does not include freight forwarders…".

Authorised NVOCC's are permitted to make AMS declarations and may issue bills of lading under their own SCAC. The ICB requirement still applies. However, the owner or bareboat charterer will still need to issue a master bill of lading to the NVOCC on which the ocean Carrier's SCAC must be used.

Many slot charterers have acquired NVOCC status, but it seems unlikely that a time or voyage charterer in the dry or liquid bulk trade will be considered to be a "common carrier".

Details of whom to approach with the aim of becoming an authorised NVOCC are shown on the following web page:

http://www.cbp.gov/ImageCache/cgov/content/import/carriers/nvoccs_5fams_2epdf/v1/nvoccs_5fams.pdf

A list of authorised NVOCC's may be found at:

http://www.cbp.gov/ImageCache/cgov/content/import/carriers/ams_5fports_5flisting/nvocc_5flist_2exls/v17/nvocc_5flist.xls

Automated Manifest System (AMS)

As of 4 March 2004 the Carrier must ensure that all declarations relating to incoming cargo are submitted to CBP via the Automated Manifest System. Depending on the type of cargo or whether it is Foreign Remaining On Board (FROB) cargo, an AMS declaration is to be made either 24 hours before loading or at least 24 hours before arrival at the first US port. In the former case if nothing is heard by return from CBP in the ensuing 24 hours, then it may be assumed that the cargo may be loaded without violation of the new AMS requirements. If the duration of the voyage is expected to be less than 24 hours, the details are to be submitted on departure from the final port of loading.

Dry Bulk and Liquid Bulk Cargoes

For dry bulk and liquid bulk cargoes an AMS submission is to be made at least 24 hours before arrival at the first US port. In the case of FROB bulk cargo the AMS declaration should be made 24 hours before loading. Bulk cargo is defined by CBP as:

"Homogenous cargo that is stowed loose in the hold and is not enclosed in any container such as a box, bale, bag, cask, or the like. Such cargo is also described as bulk freight. Specifically, bulk cargo is composed of either: (a) free flowing articles such as oil, grain, coal, ore, and the like which can be pumped or run through a chute or handled by dumping; or (b) uniform cargo that stows as solidly as bulk cargo and requires mechanical handling for lading and discharging."

CBP has also stated that, subject to certain limitations, bulk cargo may include steel coils, steel plates, wire rods, metal ingots, sawn timber, wood pulp, newsprint and various perishable goods.

Break Bulk Cargo

For break bulk cargo an AMS declaration is to be made 24 hours before loading. However, an application may be lodged for an exemption which, if granted, will allow the Carrier to file an AMS declaration 24 hours before arrival at the first US port in the same manner as bulk cargo. In the case of FROB break bulk cargo the AMS declaration should be made 24 hours before loading. Break bulk cargo is defined by CBP as:

"Cargo that is not containerised <u>and</u> that cannot be classified as "bulk" cargo under the above definition. For example, new and used vehicles will be classified as break bulk cargo."

"It is important to note that the difference between bulk and break bulk is based not only on the type of cargo, but also on the way in which the cargo is stowed or loaded. For example, bananas stowed loosely in a hold (not in boxes or containers) will be considered bulk. Palletised boxes of bananas loaded directly into a hold (but not loose or containerised) will be considered break bulk."

Carriers of break bulk cargo wishing to apply for an exemption should contact:

Applications may take two to three weeks to process and should include the following information:

- The Carrier's IRS number (if applicable);
- The source, identity and means of packaging or bundling of the commodities being shipped;
- The ports of call both foreign and domestic;
- The number of vessels the carrier uses to transport break bulk cargo;
- The names of the vessels and their IMO numbers;
- A list of the Carrier's importers and shippers, identifying any who are members of the C-TPAT (Customs – Trade Partnership Against Terrorism) programme.

Cargoes Other than Bulk and Break Bulk

For all other types of cargo, including containerised goods, the Carrier's existing obligation to file an AMS declaration 24 hours prior to loading at a foreign port remains unchanged.

AMS Submission Details

All AMS submissions are to include the following information:

- The last foreign port before the vessel departed for the United States;
- The carrier Standard Carrier Alpha Code (SCAC);
- The carrier assigned voyage number;
- The date the vessel is scheduled to arrive at the first US port;
- The numbers and quantities from the carrier's ocean bills of lading;
- A precise description of the cargo (or the Harmonized Tariff Schedule number under which the cargo is classified) and the weight of the cargo;
- Shipper's name and address or identification number;
- Consignee's name and address or identification number, or where goods are consigned to order, the "Notify Party" details;
- Vessel name, flag and IMO number;
- The first foreign port where the carrier takes possession of the cargo destined for the United States;
- The foreign port where the cargo is laden on board;
- Internationally recognised hazardous material code when such materials are being shipped;
- Container numbers (for containerised shipments);
- The seal numbers for all seals affixed to containers.

CBP Form 1302 is to be completed in electronic format and filed along with the AMS declaration and may be accessed at:

https://forms.customs.gov/customsrf/
getformharness.asp?formName=cf-1302-form.xft

AMS Reporting Methods

The Carrier may purchase and utilise compatible AMS software for this purpose. For further information see "Getting Started with AMS" at:

http://www.cbp.gov/xp/cgov/import/operations_support/
automated_systems/ams/getting_started.xml

Alternatively, and for a fee, the Carrier may submit the information through a third party AMS service provider. The Carrier's agent or representative may forward the cargo manifest details to the AMS service provider for onward transmission, but the Carrier remains responsible for the accuracy of the information. A list of AMS service providers around the world may be found at:

http://www.cbp.gov/ImageCache/cgov/content/import/
operations_5fsupport/ams/sea_5fvendor_2edoc/v7/sea_5fvendor.doc

Letter of Intent

In the first instance, the Carrier should submit a written "Letter of Intent" to CBP advising how they will be filing their Automated Manifest System (AMS) cargo declarations. The letter should specify the type of AMS software to be used or, alternatively, should provide details of the third party AMS service provider selected. The letter should be written on company headed paper and should include a point of contact, name, title, phone number, email address and the location of the office. The letter should be faxed to:

Customs and Border Protection
Client Representative Branch
7501 Boston Blvd, Room 211
ATTN: Sea AMS LOI
Springfield, VA 22153

Phone: +1 703 921 7500 (Contact name: Kevin Huck)
Fax: +1 703 921 7563

Standard Carrier Alpha Code (SCAC)

All Carriers are required to obtain a SCAC. Members should contact the National Motor Freight Traffic Association (NMFTA) in Alexandria, VA. Tel: +1 703 838 1810. Website: www.nmfta.org/scac2.htm. It is understood that it takes approximately one week for a SCAC letter of confirmation to be issued. Once received, it should be faxed to CBP at +1 703 921 7173 for the attention Charles Bennett, specifying whether the SCAC holder is a Carrier or an NVOCC.

When making an AMS submission the cargo declaration must contain a unique bill of lading identifier of up to sixteen characters in length, the first four being the Carrier's SCAC. The remaining characters may be either alpha and/or numeric. Once issued, the unique bill of lading number is not to be used again for at least three years.

International Carrier Bond (ICB)

As of 4 March 2004 it will no longer be possible to file a cargo manifest under the agent's bond. Carriers will be required to post an International Carrier Bond to secure payment to CPB of any customs "penalty, duty, tax or other charge provided by law or regulation, which any "vessel, master, owner or person in charge of a vessel" fails to pay upon demand. An ICB is not to be confused with the importer's bond posted by cargo interests. Posting the ICB is the Carrier's sole responsibility; it cannot be delegated to the Carrier's agent or to a time charterer.

The ICB may be a continuous bond covering all visits to US ports by the Carrier's vessels. It remains valid until terminated by the bond provider or by the Carrier. Alternatively, a single entry bond may be obtained. It appears that a bond of at least USD 50,000 will be required, but the amount may be increased or decreased at the discretion of the local Customs Port Director. This suggests that the required sum may vary between ports. Factors influencing the decision may include fleet size, the number of port calls made and the perceived risk. Members are advised to contact the Customs Port Director in the ports visited most often to determine the maximum figure likely to be demanded. Thereafter the bond should be filed by the Carrier in the port where their vessels discharge most frequently or, in the case of occasional calls, any port of choice.

The requirements for obtaining a continuous ICB may vary between bond providers, therefore the following advice is set out in general terms only. Costs may also differ depending on the Carrier's credit rating, but a typical sum appears to be in the region of USD 10 per USD 1,000.

The Carrier should contact an approved surety with authority to write customs bonds on Customs Form 301. For a list of approved sureties, see http://fms.treas.gov/c570/c570.html. The surety agent may ask for some or all of the following information:

- Company details (name, address);
- US tax identification number (if applicable) , or
- Customs-assigned importer number (obtained from a customs broker);
- Financial statement (properly audited);
- Possibly a Letter of Credit or some other form of collateral

Customs brokers are based in most US ports and many are listed on CBP's website:

http://www.cbp.gov/xp/cgov/toolbox/contacts/ports/

Single entry bonds may be obtained from a surety or a customs broker. Some customs brokers may be prepared to arrange a facility based on a power of attorney from the Carrier for the sole purpose of obtaining a single entry bond, possibly obviating the need for a financial statement and/or collateral.

Although International Group clubs are unable to arrange or obtain ICB's on behalf of Members, it is understood that market facilities have been established to facilitate this process. Members requiring more information on the commercial facilities available or wishing to discuss any aspect of the forthcoming regulations should contact the Club.

Summary

In summary, the action points for Members are as follows:

- Establish who is the Carrier (or Carriers). In case of doubt, contact CBP for clarification;
- For each Carrier, obtain an SCAC from NMFTA and fax to CBP thereafter;
- Decide on compatible AMS software or select a third party AMS service provider;
- Send a "Letter of Intent" to CBP;
- For break bulk cargo, lodge an application with CBP if seeking an exemption from making an AMS submission 24 hours prior to loading;
- Contact the Customs Port Director in the most frequently used port to determine the maximum amount of the International Carrier Bond likely to be demanded;
- Arrange a continuous or single entry International Carrier Bond through an approved surety or market facilities.

Further Advice

CBP has posted a list of "Frequently Asked Questions" on its website at:

http://www.customs.gov/ImageCache/cgov/content/import/communications_5fto_5ftrade/mandatory_5fadvanced_5felectronics/tpa_5ffaqs_2edoc/v1/tpa_5ffaqs.doc

At the time of writing there are still many outstanding matters awaiting clarification. Similarly, the new regulations appear to give rise to a number of commercial issues which also need to be resolved. Further advice may follow once the situation becomes clearer.

Yours faithfully

P E Spendlove
Managing Director

ASSURANCE FORENINGEN LTD.
Protection & Indemnity Association

NEWS

US Automated Manifest System (AMS) Regulations – Update

Enforcement

Further to Notice to Members No.16 2003/2004, the US Bureau of Customs and Border Protection (CBP) has updated its summary of "Frequently Asked Questions". Amendments and additions include the following:

Enforcement Date - *Carriers and/or automated NVOCC's will be required to submit an electronic cargo declaration to CBP for all vessels loading on or after March 4, 2004. Any vessel that is beginning the entire voyage on or after March 4, 2004 must comply with the specified advanced timeframes. Those vessels that are between foreign ports of call on March 4, 2004 are not required to comply with the electronic requirement for that voyage.*

Bulk and Break Bulk Vessels (Including Passenger Vessels) *– The CBP is aware of several bulk and break bulk carriers who because they are foreign entities, have been unable to secure an Activity Code 3 International Carriers bond by the automation deadline of March 4, 2004. Therefore, CBP will allow a period of informed compliance for 30 days from March 4, 2004. On April 2, 2004, CBP will commence enforcement actions against carriers operating bulk and break bulk vessels that fail to comply with the Required Advance Electronic Presentation of Cargo Information Final Rule. The enforcement actions include denial of preliminary entry, issuance of penalties at each port of arrival and denial of unlading.*

Container Vessels *– Any container vessel that is beginning a voyage on or after March 4, 2004 must transmit cargo declaration electronically utilizing Sea AMS. The CBP will commence enforcement actions on March 4, 2004 for container vessel carriers failing to comply with the Required Advance Electronic Presentation of Cargo Information Final Rule. The enforcement actions include denial of preliminary entry, issuance of penalties at each port of arrival and denial of unlading.*

CBP's revised summary of Frequently Asked Questions may be found at:
http://www.cbp.gov/ImageCache/cgov/content/import/communications_5fto_5ftrade/mandatory_5fadvanced_5felectronics/tpa_5ffaqs_2edoc/v2/tpa_5ffaqs.doc

LOOP and Ship to Ship Transfer Operations

CBP has advised that the Automated Manifest System (AMS) and International Carrier Bond (ICB) requirements will not apply to vessels destined to call at Louisiana Offshore Oil Port (LOOP) only, or due to engage in ship to ship transfer operations offshore without making a laden US port call.

Vessels arriving in ballast

Vessels in ballast will not need to file an AMS declaration prior to arrival. However, an AMS submission will be required if the ship is carrying empty containers for discharge in the US or if there is any Foreign Remaining On Board (FROB) cargo.

Port Calls for Bunkers/Stores

Vessels arriving at a US port for the sole purpose of bunkering or taking stores and departing within 24 hours remain exempt from CBP entry and clearance procedures, including AMS reporting requirements.

"Carrier"

The question of whether or not a time charterer may act as the "Carrier" remains unclear and it is understood that CBP does not intend to offer any further guidance at this time. However, within the last

few days CBP has stated that its primary goal is an accurate AMS declaration and that the parties involved in trading the ship should agree between themselves who should fulfil the role of Carrier. However, CBP has stressed that the ship will remain liable for penalties due to non-compliance, irrespective of the identity of Carrier.

Members with specific queries regarding “Carrier” issues should contact;

Mr Glen E Vereb
Entry Procedures & Carriers Branch Office
Regulations & Rulings
US Customs & Border Protection
1300 Pennsylvania Avenue NW
Mint Annex
Washington DC 20229

Tel: +1 202 572 8724
Fax: +1 202 572 8747

Further Information

For further information on AMS compliance, please contact:

Mark Williams,

Tel: +44 20 7716 6059, Fax: +44 20 7716 6061, Email: mark.williams@westpandi.com

Yours faithfully
Assurance Foreningen Ltd

R J B Searle
Publication Manager

ASSURANCE FORENINGEN LTD.
Protection & Indemnity Association

NEWS

Australia: Seafarer Eligibility for a Special Purpose Visa.

The Club's correspondents in Melbourne have drawn the Managers' attention to amendments to the Australian Migration Regulations which will affect ships' crew as well as superintendents, supercargoes and technical teams visiting vessels at Australian ports.

On 1 November 2003 the Australian Government's Department of Immigration and Multicultural Indigenous Affairs (DIMIA) passed an amendment, which came into force on 1 July 2004, to Part 1 of Schedule 9 to the Migration Regulations. It requires crew members of non-military vessels to have a valid passport and a seafarer's identity document in order to obtain a Special Purpose Visa which allows the holder to remain in Australia for as long as the vessel is in port. The seafarer's dentity document can be in the form of a Sea Service Record Book or Discharge Book which identifies the holder and confirms that he or she is employed on the vessel as a crew member.

Without the Special Purpose Visa the seafarer will be required to remain on board the vessel. For breach of this regulation DIMIA have power to fine the owners, master, charterers or agents of a vessel up to Aus$5,000 which must be paid within 28 days. . If not paid within this period the fine increases to Aus$10,000 and the authorities are entitled to enforce it against the vessel's Agents. Members are therefore advised to ensure that crew members are in possession of a valid passports and a seafarer's identity documents

The legislation applies to seafarers employed on a vessel and not to superintendents, supercargoes, technical teams or others who are not so employed and who are consequently not entitled to the Special Purpose Visa. They should obtain a business visa prior to travelling to Australia.

For further information please contact the Managers or either of the Club's correspondents in Melbourne

P E Spendlove
Managing Director

ASSURANCE FORENINGEN LTD.
Protection & Indemnity Association

NEWS

Panama Canal Tanker Inspection Programme

Panama Canal Advisory No. A-09-2004 contains information about the inspection of tankers transiting the canal as part of the canals Transit Vessel Inspection Programme. These inspections, which are conducted by industrial hygienists and marine chemists, target cargo and emission control systems, fire fighting and detection systems and other systems considered necessary for a safe transit. It would appear that any tanker may be selected for inspection although factors such as the type of cargo carried, age of the tanker, whether it is double or single hulled and performance during previous transits may result in the vessel being selected for inspection.

The inspections are usually scheduled to take place between 0600 and 2000 and are programmed to avoid disrupting the vessels transit schedule. However, if a vessel has a history of deficiencies it may be taken out of the transit schedule until it has successfully passed the inspection.

The cost of the initial inspection is free but if deficiencies are found then charges will be levied based on the chemist, pilot and launch services. Furthermore we have been informed by De Castro & Robles, our Panamanian correspondents, that if deficiencies are found that the vessel may be deemed to be in breach of Article 49 of chapter X of the Panama Canal Authority Regulations and may be liable to a fine. These fines range from US$100 to US$1,000,000 depending on the seriousness of the breach.

For further advice Members are advised to contact either the managers or De Casto & Robles.

Yours faithfully
Assurance Foreningen Ltd

R J B Searle
Publication Manager

ASSURANCE FORENINGEN LTD.
Protection & Indemnity Association

NEWS

Panama Canal Shipboard Oil Pollution Emergency Plans (PCSOPEP) – Tariff Update

The Managers in their website article of January of this year informed Members that the Panama Canal Authority (PCA) had indicated that they were building up their own oil response capabilities to provide Oil Spill Removal Organisation (OSRO) resources in the Panama Canal up to Tier II but were examining the possibility of contracting in suitable resources to meet the Tier III requirements.

The PCA has recently published Advisory No. A-50-2004 advising that it will act as the sole OSRO for canal waters. This approach is consistent with the fact that Panama has ratified the 1992 CLC and Fund Conventions. In order to fund this service the PCA has established a tariff for vessels which are required to comply with the new PSCOPEP regulations. The tariff is applicable to each transit of the canal and is separate and distinct from other charges such as the cost of responding to a spill and/or penalties resulting from non-compliance with Panama Canal Regulations.

The new tariff is as follows:-

Type of Vessel	**Tariff per transit (double hull vessels)**
Vessels with an oil carrying capacity of 400 MT up to 1,000 MT **(TIER S)**	B/.200.00
Vessels with an oil carrying capacity of more than 1,001 MT up to 7,000 MT **(TIER 1)**	B/.350.00
Vessels with an oil carrying capacity of more than 7,001 MT up to 15,000 MT **(TIER 2)**	B/.600.00
Vessels with an oil carrying capacity of more than 15,000 MT **(TIER 3)**	B/.750.00
Surcharge for vessels carrying oil as cargo and having single side or single bottom	25%
Surcharge for vessels carrying oil as cargo and having single hull	50%

Members are reminded that the PCSOPEP requirements will come into force on 1 January 2005.

Members can obtain further information concerning the implementation of PCSOPEP from the Panama Canal Authority website pcsopep@pancanal.com or from the Managers.

Yours faithfully
Assurance Foreningen Ltd

J M Stevenson
Director

ASSURANCE FORENINGEN LTD.
Protection & Indemnity Association

September 2004

Oily water separators

In many countries it is becoming increasingly common for port state control officers to target the oily water separator (OWS) for close scrutiny when carrying out ship inspections. Indications that the equipment may have been bypassed, tampered with or used incorrectly may result in serious ramifications.

If fresh or chipped paint is found in the vicinity of such equipment the authorities may require pipes to be uncoupled or valves to be dismantled in order to check whether oil is present. Flexible hoses, even if disconnected, may generate similar suspicions if deemed to be capable of circumventing the OWS. In addition, inspectors are generally wise to the fact that older OWS units may be deceived by flushing clean water past the sensors. Waste oil disposal and incinerator records may also be examined to determine whether or not they correspond with the declared operation of the OWS.

Although negative findings may result in serious consequences anywhere in the world, the United States is particularly robust in its response to OWS violations. In addition to civil penalties, shipping companies may face criminal prosecution and individuals on board the ship and in the office ashore may also be charged. United States law also provides for large whistle blower awards in certain instances, presenting shipboard personnel with a significant incentive to report OWS misconduct. Therefore, although the recommendations outlined in this Bulletin relate to OWS issues in general, the situation in the United States is considered at length.

Penalties

If an illegal discharge of oil is believed to have taken place within US waters, there are several options open to the prosecutors. Under the Act to Prevent Pollution from Ships, a deliberate breach of MARPOL by an individual is punishable by a term of imprisonment of up to 10 years and a fine not exceeding $250,000. Companies may be fined up to $500,000 and the vessel may be sold to meet any penalty imposed.

The intentional or negligent discharge of oil in territorial seas may also lead to prosecution under the Clean Water Act which provides for up to 5 years imprisonment for failing to report such an event. In addition, senior managers who ought to have known of a violation or who could have and should have taken steps to prevent such an occurrence may be held criminally liable under the Responsible Corporate Officer Doctrine.

If it is believed that the Oil Record Book (ORB) contains fabricated information, criminal charges may be brought under the False Statements Act irrespective of whether the vessel was within or outside US territorial waters at the time of the alleged wrongdoing. Many indictments have been based on this premise. Other charges which have been brought in the past include witness tampering, supplying government representatives with false information (obstruction) and conspiracy. Conviction for any of these offences may lead to a substantial fine and/or a prison sentence for shipboard personnel and even shore staff.

Recent Examples

OWS violations relating to passenger vessels have been well publicised, but cases involving cargo ships have not always been promulgated to the same extent. The following examples represent some, but by no means all, of the prosecutions and convictions resulting from OWS and/or ORB offences in the United States in recent years:

- US Coast Guard officers in Longview, Washington boarded a bulk carrier after being advised by the Canadian Royal Air Force that an oil sheen had been seen in the vicinity of the vessel a few days earlier. Hoses which may have been used to bypass the OWS were found. The Chief

Engineer subsequently acknowledged that oily water had been pumped overboard and that false entries had been made in the ORB. He was sentenced to twelve months imprisonment (2002).

- Acting on advice from a former crewmember, US government officials boarded a car carrier in Portland, Oregon and discovered a flexible hose which had been used to bypass the OWS. Furthermore, the overboard discharge valve was found to have been freshly painted in the area where the bypass hose had been disconnected. The First Assistant Engineer, the officer responsible for the disposal of waste oil, initially denied all knowledge of the arrangement. However, he was charged with making a false statement and was detained in Portland for six months pending a hearing at which he pleaded guilty. The officer was sentenced to two years on probation. The ship's Chief Engineer, who was prosecuted for falsifying the ORB, was imprisoned for three months (2002).
- Following the discovery of ORB discrepancies aboard a bulk carrier in Vancouver, Washington, the Chief Engineer admitted that he had instructed crewmembers to discharge oily water into the sea via a bypass hose. The shipowner was ordered to pay a criminal fine of $750,000, was required to implement a comprehensive environmental compliance plan and received a sentence of four years on probation (2003).
- US Coast Guard officers attended a vessel in Kalama, Washington to carry out a routine port state control inspection. A flexible hose with a flange at each end was found in the vicinity of the OWS, and chipped paint was observed on nearby joints and in the region of the overboard discharge valve. The inspectors also concluded that the ship's incinerator was incapable of burning all of the oil sludge produced each day in spite of entries in the ORB to the contrary. The shipowner entered into a plea agreement amounting to a criminal fine of $200,000, a requirement to develop an environmental compliance plan for its entire fleet, the payment of $50,000 into an escrow account to fund the implementation and monitoring of the compliance plan and three years on probation (2003).
- A large shipping company pleaded guilty to seven criminal charges regarding the falsification of records and the concealment of evidence by one of its ships while calling at various ports in California and Washington. If the plea agreement is approved, the company will be required to pay a fine of $3.5 million, develop a comprehensive environmental compliance plan for its fleet and serve four years on probation. The charges were brought after the Second Engineer admitted instructing other crewmembers to bypass the OWS by using a flexible pipe assembled on board and to paint the fittings after disconnection. The officer was sentenced to 30 days in custody plus two years of supervised release (2004).
- During a routine inspection of a bulk carrier in Portland, Oregon, a US Coast Guard officer found a pipe running between the OWS and the overboard discharge valve to be caked with oil sludge. It also became evident that the ship's incinerator had not been used as often as stated. During the investigation the Chief Engineer confirmed that the OWS had been bypassed and that improper records had been maintained, and was sentenced to one month in prison. The company subsequently pleaded guilty to four felonies arising from this incident and was fined $2 million (2004).

Safeguards

Clearly, MARPOL requirements should be strictly observed at all times. It should also be recognised that minor oversights, documentary errors or unusual piping arrangements may result in close scrutiny by port state control officers in any jurisdiction, not just the USA. Given the possibility of costly fines and, in certain countries, the prospect of criminal penalties, the following recommendations may minimise exposure to such risks:

- The Oil Record Book must be completed with care. The same applies to the ship's incinerator records. Entries should always be scrupulously accurate and completely up to date, and all receipts regarding the disposal of sludge and oily water should be retained. Such details may be examined by port state control officers to ascertain whether the records concur with the operation and capability of the OWS and other equipment.
- Company Safety Management Systems and standing orders should be reviewed to ensure that OWS operating procedures and responsibilities are stated clearly.

- Ships' personnel responsible for operating the OWS and the incinerator should be mindful that they may be questioned by port state control officers to establish the extent of their knowledge. Evidence of unfamiliarity may be regarded as suspicious.
- Efforts should be made to dispose of any flexible hoses which might be construed as being capable of bypassing the OWS, particularly if fitted with a flange at each end.
- The OWS Oil Content Monitor should be calibrated regularly in accordance with manufacturers' recommendations. Test results should always be documented and all calibration records should be maintained with care.
- Engine room pipelines, particularly lines connected directly or indirectly to the overboard discharge valve, should be compared with the relevant plans. If any discrepancies are found, checks should be made to verify that the arrangements comply with current statutory and classification society requirements prior to updating the drawings. It is worth noting that some companies require their vessels to paint all lines connected to the OWS in a distinctive colour to facilitate the examination of the system
- Redundant pipelines linked to the OWS or the overboard discharge valve should either be removed permanently or cleaned internally and blanked off.
- Valves which normally remain shut (eg overboard discharge, emergency bilge) may be secured in the closed position with a seal marked with a unique serial number. The number and location of each seal and the date it was applied may be recorded in the ORB and the engine room log thereafter. The information may also be forwarded to the company for monitoring purposes.
- Officers should be aware that signs of fresh paint or new or recently turned bolts may be regarded as suspect. If pipes and valves are opened for inspection or maintenance, all particulars including details of any repainting should be recorded in full and retained on board.
- Superintendents should pay close attention to the OWS and the ORB when making ship visits. Any apparent lapses should be discussed with the Master and Chief Engineer and rectified. Additional checks may be made during ISM internal audits.
- Ships' personnel should always be honest when answering questions asked during port state control inspections, and shore management should never attempt to influence their replies. Acting against this advice may exacerbate the consequences if contradictory evidence is subsequently found.

Important

In countries such as the United States where negative findings regarding the OWS and/or the ORB may lead to both civil and criminal action, it is imperative that the Club or the local P&I correspondent is notified immediately so that legal representation may be arranged without delay. Ships' personnel should not provide statements or agree to be interviewed by the authorities unless advised to do so by the lawyer(s) appointed to act for the vessel.

Even if the evidence is circumstantial or if it appears that incorrect conclusions have been drawn, the Master should not hesitate to involve the Club from the outset.

Members should also be aware that any fine or penalty imposed may not be covered by the Club if the discharge of oil was not accidental or if the Member disregarded or failed to take reasonable steps to prevent the incident or activity leading to the imposition of a fine.

Yours faithfully
Assurance Foreningen Ltd

R J B Searle
Director

Notice to Members No.13 2003/2004

11 February 2004

Dear Sirs

Class 1

Extraordinary General Meeting held on 4 February 2004

We confirm that the Extraordinary General Meeting of Class 1 Members was duly held on Wednesday, 4 February 2004, as follows:

Alterations to the Association's Class 1 Rules

The Resolution to adopt the proposed alterations to the Class 1 Rules, as set out in the Notice to Class 1 Members No. 10 dated 7 January 2004, was passed unanimously.

The alterations will take effect from noon GMT on 20 February 2004.

If you require any further information on the above, please do not hesitate to contact the Association's Managers.

Yours faithfully
Assurance Foreningen Ltd

Philip A Aspden
General Manager

ASSURANCE FORENINGEN LTD.
Protection & Indemnity Association

Notice to Members No.12 2003/2004

February 2004

Dear Sirs

Weekend Duty Officer

From 21 February 2004 our London office will no longer be open on Saturday mornings. In line with existing arrangements for contact out of office hours, Members and Correspondents are encouraged to contact the Claims Group direct whenever possible (using the contact numbers in the List of Correspondents, the Rule Book). There will now, in addition, be a weekend duty officer (by rota) contactable on mobile phone number (+44)(0)7795 116602 to deal with any urgent matters if Members or Correspondents are unable to contact the appropriate Claims Group.

Yours faithfully
Assurance Foreningen Ltd

J M Stevenson
Director

Notice to Members No.11 2003/2004

7 January 2004

Notice to All Class 2 Members

NOTICE is hereby given that an Extraordinary General Meeting of the Members of Class 2 of the Association will be held on Wednesday, 4 February 2004 at 1030 hours or as soon thereafter as the business of the Extraordinary General Meeting of the Members of Class 1 of the Association has been completed, in the Dolder Grand Hotel, Kurhausstrasse 65, CH-8032 Zurich, Switzerland for the purpose of considering and, if thought fit, passing the following SPECIAL Resolution:

SPECIAL RESOLUTION

THAT alterations to certain of the Rules of Class 2 (as hereafter set out with commentary) be made to take effect from noon GMT on 20 February 2004:-

By order of the Board
P A Aspden
Secretary
33 Boulevard Prince Henri
1724 Luxembourg
7 January 2004

A Member entitled to attend and vote is entitled to appoint a proxy (who need not be a Member of the Association) to attend and on a poll vote instead of him. The instrument appointing a proxy shall be left with the Secretary not less than 48 hours before the holding of the Meeting.

CLASS 2 – RULE CHANGES FOR 2004

COMMENTARY

INTRODUCTION

There are both major and minor changes proposed to the Rules for 2004. Major changes or re-drafting of a whole Rule are covered by a full commentary. Where there is a minor change comment is brief.

Legal advice on major changes has, where appropriate, been taken.

FORMAT

Those parts of the 2003 Rules where it is proposed that changes are made are attached with the changes marked. A proposed deletion from the 2003 Rules is identified by striking through the text to be deleted. Proposed additions are marked in underlined type, except where changes are proposed to Rule headings, where the change is identified with ordinary text. All proposed changes are accompanied by a vertical mark in the margin for ease of identification. There is an exception in the case of Form B.3 where the text of the previous Form is not shown and the new text is not underlined. Page headers and number of the Rules and pages will be adjusted once changes are adopted and prior to printing for the 2004 policy year.

CHANGES TO SPECIFIC RULES:

1. Rule 43 : Releases

   The proposed amendment specifies a date or dates on which a Release is payable rather than making the Release payable “immediately”.

2. Rule 51 : Bail

   The proposed changes allow counter security to be deemed to be on the standard B3 form in those cases where the only uninsured element of bail given by the Association is the deductible. This will replace the current position where, if the Association wishes to have a deductible counter secured, it must enter into a special agreement with the member aside from the deeming provision in the Rule 51.

3. The First Schedule

   The proposed amendment replaces the B3 form of counter security in the Schedule with the revised B3 terms set out in the Notice to Members of February 2003 No.1 2003/2004 which gave effect to the bye law approved by the Board in February.

Yours faithfully
Assurance Foreningen Ltd

R J B Searle
Publication Manager

ASSURANCE FORENINGEN 1TD.
Protection & Indemnity Association

Notice to Members No. 10 2003/2004

7 January 2004

Notice to All Class 1 Members

NOTICE is hereby given that an Extraordinary General Meeting of the Members of Class 1 of the Association will be held on Wednesday, 4 February 2004 at 1030 hours in the Dolder Grand Hotel, Kurhausstrasse 65, CH-8032 Zurich, Switzerland, for the purpose of considering and, if thought fit, passing the following SPECIAL Resolution:

SPECIAL RESOLUTION

THAT alterations to certain of the Rules of Class 1 (as hereafter set out with commentary) be made to take effect from noon GMT on 20 February 2004:-

By order of the Board
P A Aspden
Secretary
33 Boulevard Prince Henri
1724 Luxembourg
7 January 2004

A Member entitled to attend and vote is entitled to appoint a proxy (who need not be a Member of the Association) to attend and on a poll vote instead of him. The instrument appointing a proxy shall be left with the Secretary not less than 48 hours before the holding of the Meeting.

CLASS 1 – RULE CHANGES FOR 2004

COMMENTARY

INTRODUCTION

There are both major and minor changes proposed to the Rules for 2004. Major changes or re-drafting of a whole Rule are covered by a full commentary. Where there is a minor change comment is brief.

Legal advice on major changes has, where appropriate, been taken.

FORMAT

Those parts of the 2003 Rules where it is proposed that changes are made are attached with the changes marked. A proposed deletion from the 2003 Rules is identified by striking through the text to be deleted. Proposed additions are marked in underlined type, except where changes are proposed to Rule headings, where the change is identified with ordinary text. All proposed changes are accompanied by a vertical mark in the margin for ease of identification. There is an exception in the case of Form B.3 where the text of the previous Form is not shown and the new text is not underlined. Page headers and number of the Rules and pages will be adjusted once changes are adopted and prior to printing for the 2004 policy year.

CHANGES TO SPECIFIC RULES:

1. **Rule 2 Section 11: Pollution**

   The proposed change permits the Association to give effect to the proposed Small Tanker Owners Pollution Indemnity Agreement (STOPIA) by making participation of a relevant ship in STOPIA a condition of cover for oil pollution. Details of STOPIA are currently under discussion with the IOPC fund. Members will be advised of the terms of STOPIA once it is finalised. The proposed change permits the Managers to waive the requirement of STOPIA membership in the event that STOPIA is not finalised before or during the 2004/2005 policy year.

2. **Rule 28: Bail**

   The proposed changes allow counter security to be deemed to be on the standard B3 form in those cases where the only uninsured element of bail given by the Association is the deductible. This will replace the current position where, if the Association wishes to have a deductible counter secured, it must enter into a special agreement with the member aside from the deeming provision in the Rule 28.

3. **Rule 47B : Releases**

   The proposed amendment specifies a date or dates on which a Release is payable rather than making the Release payable "immediately".

4. **The Second Schedule**

   The proposed amendment replaces the B3 form of counter security in the Schedule with the revised B3 terms set out in the Notice to Members of February 2003 No.1 2003/2004 which gave effect to the bye law approved by the Board at that time.

Yours faithfully
Assurance Foreningen Ltd

P E Spendlove
Managing Director

ASSURANCE FORENINGEN LTD.
Protection & Indemnity Association

10 September 2004

Notice to Members No: 06 2004/2005

Dear Sirs

COMPUTER SYSTEMS

The Club is in the process of introducing new computer systems that are designed to improve the information and documentation available to Members, particularly in relation to invoicing and certificates of entry.

INVOICING AND STATEMENTS

Completely new formats for invoices and statements have been developed following a pilot project last year with a number of Members and brokers. Invoices will continue to be issued for all entries but, following the change this policy year to a quarterly installment basis for the payment of premiums, it is proposed that in future, payments to the Club should be made against monthly statements.

Statements, which will be made up to, and dated, 20th of each month, will be payable before the 20th of the following month. The statements will list individually all invoices, cash receipts and other credits since the previous statement date and will identify those amounts which are payable before the following statement date separately from those that are payable thereafter.

Invoices will be issued with a due date to coincide with the monthly statement date, except where the invoices relate to claims matters, such as claims deductibles and bail fees, which will continue to be payable immediately. However, they will, together with the related payment, appear on the relevant statement in order to provide Members with a complete record of transactions.

CERTIFICATES OF ENTRY, ENDORSEMENTS AND RELATED DOCUMENTS

There will be some changes in the format but not the content of Certificates of Entry, Endorsements and related documents to facilitate their production and transmission electronically, although the documents will continue to be available in paper form. In addition short form Certificates of Entry will be available for open cover entries for charterers.

CLAIMS REFERENCE NUMBERS

All claims reference numbers will be modified so that the current numerical prefixes will be replaced with the policy year in which the incident arose.

For example file reference 1/567890 under the current system would, if the claim arose in the 2002 policy year, become 2002567890.

Yours faithfully
Assurance Foreningen Ltd

R J B Searle
Director

ASSURANCE FORENINGEN LTD.
Protection & Indemnity Association

Notice to Members No.5 2004/2005

July 2004

Dear Sirs

RECOMMENDED CLAUSES
HIMALAYA CLAUSE

On 19 May the Board passed a bye-law to include a "Himalaya" clause among clauses recommended by the Association in accordance with Rule 2 Section 16. The bye-law becomes effective on 1 August 2004.

The clause, shown below, is intended to extend to servants, agents and sub-contractors of the carrier the exemptions from and limitations of liability which are normally available by law to the carrier under contracts of carriage for goods or passengers. Most operators in liner or passenger business already use the clause. The purpose of the bye-law is to encourage wider use of the clause in all trades by direct incorporation into contracts of carriage and/or by inclusion in charter parties of a requirement that bills of lading, waybills and other contracts of carriage issued under such charter parties shall include the "Himalaya" clause.

The Board may reject or reduce a claim on the Association arising out of a contract of carriage which is inconsistent with a recommended clause, if it considers it was unreasonable to have entered into the particular contract.

"HIMALAYA CLAUSE

Exemptions and immunities of all servants and agents of the carrier.

It is hereby expressly agreed that no servant or agent of the carrier(including every independent contractor from time to time employed by the carrier) shall in any circumstances whatsoever be under any liability whatsoever to the shipper, consignee or owner of the goods or to any holder of this bill of lading for any loss, damage or delay of whatsoever kind arising or resulting directly or indirectly from any act, neglect or default on his part while acting in the course of or in connection with his employment and, but without prejudice to the generality of the foregoing provisions in this clause, every exemption, limitation, condition and liberty herein contained and every right, exemption from liability, defence and immunity of whatsoever nature applicable to the carrier or to which the carrier is entitled hereunder shall also be available and shall extend to protect every such servant or agent of the carrier acting as aforesaid and for the purpose of all the foregoing provisions of this clause the carrier is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all persons who are or might be his servants or agents from time to time (including independent contractors as aforesaid) and all such persons shall to this extent be or be deemed to be parties to the contract in or evidenced by this bill of lading."

Members requiring advice about the use of the "Himalaya" clause should contact the Managers.

Yours faithfully
Assurance Foreningen Ltd

R J B Searle
Publication Manager

Notice to Members No.4 2004/2005

May 2004

Dear Sirs

POLICY YEAR BALANCES

At their meeting on 19 May 2004 the Board reviewed the latest policy year balances as at 20 February 2004.

Over the last twelve months the Club's overall financial strength has increased significantly. This is primarily as a result of an investment return of 14.4%. Free reserves are up by approximately $20 million to $145 million and net assets have risen to more than $500 million.

CLASS 1 (P&I)

Closed Policy Years

The aggregate surplus for closed policy years, including 2000, has increased by about $10 million to $79 million.

Open Policy Years

2001/2002

The latest claims figures for the 2001 policy year continue to be stable with the result that the Board has decided to close the year without a further call.

2002/2003

Claims costs for the 2002 policy year remain slightly higher than for 2001 but the year is developing satisfactorily. The Board has confirmed that no further call is expected and that the year should be closed in May 2005. The original release call (15%) remains unchanged.

2003/2004

Claims costs for the 2003 policy year, although at an early stage of development, are substantially higher than for any previous policy year. Claims for amounts up to $500,000 show a normal pattern of development, but the Club experienced an extraordinary number of high value claims in the first three months of the policy year. The year however benefits from much higher premium income and substantial recoveries from the special reinsurances which have been placed for retained claims. The Board has therefore confirmed that the forecast additional call of 20% shall be payable by 20 August 2004 and that the original release call of a further 15% shall remain unchanged.

CLASS 2 (FD&D)

Closed Policy Years

The aggregate surplus for closed policy years up to and including 1998 has increased to nearly $13 million as claims costs have remained stable.

Open Policy Years

1999/2000

The 1999/2000 policy year remains in surplus. The Board has decided that it should be closed without a further call.

2000/2001 and 2001/2002

Although the 2000 policy year shows a small shortfall before investment income, the 2001 policy year is also in surplus. No further calls are expected for either year and the release calls remain unchanged (25% for 2000 and 15% for 2001).

2002/2003

The claims forecasts for 2002 remain within original projections with the result that the Board has decided to call the 20% additional call to be payable by 20 August 2004. No change has been made to the 15% release call.

2003/2004

It remains too early to form meaningful conclusions for 2003 at so early a stage of development. No change has been made to the forecast additional call (20%) or to the further release (15%).

As usual, detailed figures for both Class 1 and Class 2 will be published with the Club's Annual Report and Accounts for the year ending 20 February 2004 in the coming weeks.

Yours faithfully
Assurance Foreningen Ltd

P E Spendlove
Managing Director

ASSURANCE FORENINGEN LTD.
Protection & Indemnity Association

Notice to Members No.3 2004/2005

April 2004

Dear Sirs

THE ISPS CODE AND CLUB COVER

Members are reminded that the International Ship and Port Facility Security (ISPS) Code requires companies to have obtained from the relevant flag state an International Ship Security Certificate for each applicable vessel on or before 1 July 2004. By now, progress towards obtaining such certification should be well advanced and Members with a significant amount of work still to complete may need to devote considerable resources towards finishing this important task in time.

Although it is difficult to gauge how certain aspects of the ISPS Code may work in practice, it is known that some countries, most notably the United States, will be operating a strict policy of "zero tolerance" after the deadline has passed. Vessels found to be lacking an International Ship Security Certificate after 1 July 2004 may be delayed, detained, denied entry to or expelled from port.

Members should also be mindful of Rule 20 G which reads:

Unless otherwise agreed in writing by the Managers, it is a condition of cover that every Member insured in respect of an insured vessel shall at all times maintain the validity of such statutory certificates as are issued in respect of such vessel by or on behalf of the state of the vessel's flag.

Unless the Committee otherwise determines no claim shall be recoverable from the Association in respect of events occurring during any period in which the validity of such certificates is not maintained.

Consequently, a Member who does not maintain a valid International Ship Security Certificate in respect of an entered vessel may not be insured by the Association and any claim arising during the period when such Certificate is not maintained may be recoverable only at the discretion of the Directors.

As in the past, Members seeking further guidance on any aspect of ISPS Code compliance may contact the Loss Prevention department for advice.

Yours faithfully
Assurance Foreningen Ltd

M W H Williams
Director

ASSURANCE FORENINGEN LTD.
Protection & Indemnity Association

Notice to Members No.2 2004/2005

March 2004

Dear Sirs

USA – AUTOMATED MANIFEST SYSTEM REGULATIONS – IDENTITY OF 'CARRIER'

Since publication of the initial International Group Circular dated February 2004, the United States Bureau of Customs and Border Protection (CBP) has declined to provide a general ruling as to the identity of the Carrier who will be required to comply with the regulations where a ship is on time or voyage charter. This supplemental circular summarizes the currently available information as to CBPs view of who may be considered to be the Carrier in relation to such ships.

Initial CBP Advice

CBP initially defined the Carrier as the "entity that controls the conveyance." In particular, the agency suggested that since the head owner or bareboat charterer hires the crew and is responsible for the day to day navigation of the vessel, either or both would be considered to be the Carrier. CBP has subsequently suggested that rather than taking a formal position on the identity of the Carrier, the agency would prefer to see the industry parties work out amongst themselves who (either owners or charterers) would be responsible for complying with the regulations. Prior to this change in position CBP verbally advised that the agency had not anticipated the numerous complicated transactions that can make up a charter party chain. While CBP would give no general guidance as to whether owners or charterers would be responsible for complying with the regulations, CBP invited parties to request a formal ruling as to the identity of the Carrier under the circumstances of a particular charter party chain. (The process for obtaining a formal ruling can be found on the CBP web site at www.cbp.gov/xp/cgov/toolbox/legal/Rulings/ruling_letters.xml). CBP has been inundated with requests from owners and charterers seeking formal rulings.

CBP Rulings

The International Group has been advised of at least two rulings issued by CBP where the time charterer was determined to be the Carrier and the party to whom CBP would look to comply with the regulations. This includes not only responsibility to comply with electronic manifesting of cargo information via the vessel AMS system, but also the requirement to post an International Carrier Bond and use the time charterer's SCAC code on bills of lading issued for the cargo. In support of the rulings CBP has noted that it was the charterer who controlled the type of cargo and location at which the vessel was to load and discharge and who, therefore, was in "control" of the vessel for purposes of the regulations. In another ruling, CBP found that the Carrier was the party who formerly was responsible for providing the vessel agent with the information used to prepare the CF 1302 cargo declaration.

While the CBP rulings are technically only applicable to the particular circumstances presented by the party requesting the ruling, they are posted on the CBP web site www.cbp.gov and do serve as guidance as to how CBP is likely to rule in a similar case. Notwithstanding these rulings, CBP has not determined that it will be the charterer in all cases who will be considered the Carrier.

CBP Seminar 18 March 2004

Because of the continuing confusion as to the identity of the Carrier, on Thursday, 18 March, 2004, a meeting was held by CBP in New Orleans in order to address the industry's concerns. CBP repeated its position that due to the complexity of the various contractual agreements which may be involved with respect to how a vessel charter party chain functions, of which the agency apparently was not aware at the time the regulations were promulgated, it was decided that the industry was the best suited to determine who amongst owners and charterers was the Carrier.

For purposes of guidance, CBP advised that it views the Carrier as the entity that "controls" the vessel which includes: (a) determining ports of call; (b) controlling loading and discharging cargo; (c) knowledge of cargo information; (d) issuing of bills of lading; and (e) the entity which has typically provided the CF 1302 cargo declaration or the cargo information to prepare the CF 1302 to the vessel agent. Thus, depending on the circumstances of the particular charter transaction, either an owner or a charterer could be found to be the Carrier responsible for compliance. When pressed for further guidance as to who is the Carrier where the owner issues the bill of lading and the charterer does everything else, CBP indicated

that it would only respond to questions in writing, about a specific charterparty, and submitted for a formal ruling to CBP headquarters in Washington.

Practical Steps

As a practical matter, it is recommended that owners and charterers agree in any new charter party who will undertake to comply with the regulations including the filing of the manifest, SCAC and ICB for vessels calling in the US. As for existing charters that do not state which party is to be responsible for compliance, owners and charterers should agree in writing prior to a vessel's arrival in the US which of them will comply with the regulations and how the cost of so doing will be allocated, so as to avoid risk to both owners and charterers for failure to comply.

If the parties fail to agree as to which of them will comply, Members should be aware of the potential consequences. Under US law, CBP is authorized to assess fines and penalties not only against the Carrier, but also against the master and the vessel. In addition to possible action against them by CBP, where deemed to be the Carrier, charterers who act unreasonably also face potential risks through whatever recourse may be available to owners under the relevant charter party.

All concerned are reminded that CBP will commence enforced compliance of the new regulations as of 2 April, 2004, for voyages which commence on or after that date.

Yours faithfully

Assurance Foreningen Ltd

(As Managers)

M W H Williams
Director

Notice to Members No.1 2004/2005

March 2004

Dear Sirs

WAR RISK P&I 2004 – CHEMICAL, BIO-CHEMICAL, ELECTROMAGNETIC WEAPONS AND COMPUTER VIRUS EXCLUSION CLAUSE

We refer to Notice No. 15 2003/2004 dated February 2004 and in particular to paragraph 4 which sets out the terms of the Club's excess War Risk P&I cover for 2004/2005.

As was the case for the 2003 policy year, the cover for the 2004 policy year is subject to a **Chemical, Bio-Chemical, Electromagnetic Weapons and Computer Virus Exclusion** in a form which in most cases will also apply to a Member's individual underlying war risk P&I policy for cover up to an entered vessel's proper value.

For 2003 the Club provided some limited cover for risks excluded by the Bio-Chemical Exclusion on the terms and conditions set out in **Notices to Members Nos. 4 and 6** dated April and May 2003.

For 2004 this cover continues on the same terms and conditions as are set out in those **Notices to Members No. 4** and **No. 6** dated April and May 2003 but with an increased limit from $60 million to $65 million.

In addition, as a result of a decision by International Group Clubs to provide some cover through a Supplemental Pooling Agreement, Members will also be covered for crew risks and for legal expenses relating to all P&I liabilities which are otherwise excluded by a Bio-Chemical Exclusion.

This cover, which takes effect from 15 March 2004, is set out in detail in **ATTACHMENT 1**, but, in summary, is as follows:

Cover will be in respect of the Member's liability:-

1. (a) To pay damages, compensation or expenses in consequence of the personal injury to or illness or death of any seaman (including diversion expenses, repatriation and substitute expense and Shipwreck unemployment indemnity), arising from a Bio- Chem. event

and

(b) for the legal costs and expenses incurred solely for the purpose of avoiding or minimizing any other P&I liability arising from a Bio-Chem. event (other than under the Omnibus Rule).

2. The cover which is provided to all Members will be from the ground-up (in excess of a Member's usual deductible).

3. The Club will retain the first $5 million of any one claim, with the $15 million excess over $5 million being pooled as if any other Pool claims.

4. The limit of cover is $20 million for all claims arising out of an incident for each vessel in the aggregate regardless of the number of interests in the vessel and regardless of whether or not those interests are insured by different P&I Clubs (e.g. Owners, charterers and sub-charterers).

5. To avoid excessive aggregation of risk cover will have a cancellation provision and areas of particular sensitivity may also be the subject of geographical exclusions (e.g. the Athens Olympics).

6. No premium will be charged for the cover, although premium may be charged for specific risks which may arise and which may be the subject of a premium notice if cover is to be maintained or varied.

Taken together with the cover which the Club continues to provide in accordance with Notices to Members No.4 and No.6 of April and May 2003, the Supplemental Pooling Agreement has enabled the Club to increase for all Members the overall amount of cover which is now being provided for 2004 for claims which are excluded either from the Club's excess War Risk P&I cover or from a Member's individual War Risk P&I policies as a result of the Bio-Chemical Exclusion.

Members who have queries about the way in which the cover operates should contact the Managers in the usual way.

Yours faithfully

P E Spendlove
Managing Director

NEWS

New Pollution Fines at Turkish Ports

The Managers have been informed by the Association's Turkish Correspondents of an increase in the fines that can be levied by the Port Authorities for vessels polluting waters in Turkish ports.

The new tariff levels which came into effect on 1 January 2004 are as follows:

A. Fines to tankers

Gross tonnage	Turkish Lira	US$ Equivalent
0 – 1,000 gt inclusive	TL 72,970,175,159	US$ 53,885.50
1,000 – 5,000 gt inclusive	TL 145,940,350,317	US$ 107,771.00
5,000 gt and above	TL 729,701,751,585	US$ 583,855.00

B. Fines applicable to all other vessels

Gross tonnage	Turkish Lira	US$ Equivalent
0 – 18 gt	TL 4,378,210,510	US$ 3,233.13
18 – 1,000 gt inclusive	TL 72,970,175,159	US$ 53,885.50
1,000 gt and above	TL 145,940,350,317	US$ 107,771.00

For further information please contact the Association's Loss Prevention Department.

(US Dollar equivalent calculations made using the OANDA exchange rate on 9 January 2004 – 1US$ = 1,393,334 TRL)

Yours faithfully
Assurance Foreningen Ltd

R J B Searle
Publication Manager

Mariupol: Loading Bulk Sulphur Cargoes

The Club's correspondents in Mariupol, Azovlloyd Pandi Services Limited, have drawn the Managers' attention to issues relating to powdered sulphur cargoes at the port of Mariupol, Ukraine

The Code of Safe Practice for Solid Bulk Cargoes (BC Code) draws attention to the risk of dust explosions when loading sulphur in bulk. Rather than handling this commodity carefully it would appear that stevedores in Mariupol may open the grabs high above the surface of the cargo, significantly increasing the amount of dust in the holds.

Similarly, in the absence of mechanical ventilation it is customary for sulphur dust levels to be controlled by spraying fresh water on to the cargo and within the holds. However, it is reported that stevedores in Mariupol are using sea water from the vessel's fire main for this purpose. Since sea water in the port of Mariupol is brackish rather than fresh, this practice may introduce chlorides to the cargo which, in turn, may lead to contamination claims. Bulk sulphur containing chlorides is also highly corrosive to steel when wet.

It is also important to note that although sulphur is listed in Appendix B of the BC Code as a material which possesses chemical hazards, it would appear that the shippers do not always provide the vessel with the necessary cargo information or documentation prior to loading, contrary to the requirements of SOLAS Ch.VI, Reg 2.

Recommendations for vessels due to load sulphur in Mariupol are as follows:

1. Members should ensure that the Master is provided with a copy of the BC Code entry for sulphur;
2. Full details of the cargo and all supporting documentation should be obtained from the shipper before loading commences;
3. The Master should issue a formal letter to both the stevedores and the shippers prior to loading stating that:
    a. the cargo is to be loaded strictly in accordance with the BC Code;
    b. grabs are not to be opened at a height greater than one metre above the surface of the cargo in order to minimise the amount of sulphur dust;
    c. only fresh water is to be used for spraying; and
    d. the addressees will be held liable for any claims which may arise due to their failure to comply with the above.
4. The Master should ensure that the stevedores are monitored closely throughout and if it is found that the stevedores are not loading in accordance with the formal letter issued by the Master our local correspondents should be contacted for assistance.

Members requiring further information should contact the Association's Loss Prevention department.

Yours faithfully
Assurance Foreningen Ltd

R J B Searle
Publication Manager

ASSURANCE FORENINGEN LTD.
Protection & Indemnity Association

NEWS

MARITIME SECURITY – UPDATE

FURTHER TO NOTICE TO MEMBERS NO 3 2003/2004 “MARITIME SECURITY – NEW SOLAS REQUIREMENTS”, MEMBERS ARE REMINDED THAT IT IS A CONDITION OF COVER FOR ENTERED VESSELS TO MAINTAIN VALID STATUTORY CERTIFICATION AT ALL TIMES. SINCE THE INTERNATIONAL SHIP AND PORT FACILITY SECURITY (ISPS) CODE LAYS DOWN SPECIFIC OBLIGATIONS IN THIS RESPECT, THE IMPORTANCE OF OBTAINING AN INTERNATIONAL SHIP SECURITY CERTIFICATE FOR EACH APPLICABLE VESSEL BY 1 JULY 2004 CANNOT BE OVER-EMPHASISED. A CIRCULAR TO THIS EFFECT WILL BE ISSUED SHORTLY.

US MARITIME SECURITY REQUIREMENTS ARE LESS CLEAR. ACCORDING TO THE PROVISIONS OF THE MARITIME TRANSPORTATION SECURITY ACT (MTSA) 2002, IT WOULD APPEAR THAT SHIP (“VESSEL”) SECURITY PLANS ARE TO BE SENT TO THE US COAST GUARD BY 31 DECEMBER 2003 FOR APPROVAL. HOWEVER, IN SEPTEMBER THIS YEAR THE US COAST GUARD PUBLISHED A STATEMENT ADVISING FOREIGN SHIPOWNERS NOT TO SUBMIT SUCH PLANS, CONTRARY TO THE VIEWS OF US LAWYERS HOLLAND & KNIGHT. IRRESPECTIVE OF THE MTSA, IT HAS BEEN REPORTED THAT SOME FLAG ADMINISTRATIONS HAVE WARNED SHIPOWNERS AGAINST SENDING SHIP SECURITY PLANS TO THE US COAST GUARD ON THE GROUNDS THAT SUCH ACTION MIGHT AMOUNT TO A BREACH OF CONFIDENTIALITY. CONSEQUENTLY, SHIPOWNERS INTENDING TO FOLLOW HOLLAND & KNIGHT’S RECOMMENDATIONS SHOULD CONSULT WITH THEIR FLAG ADMINISTRATION(S) IN THE FIRST INSTANCE. MEMBERS WILL BE ADVISED OF FURTHER DEVELOPMENTS.

IN THE MEANTIME MEMBERS STILL SEEKING GUIDANCE ON THE PREPARATION OF SHIP SECURITY PLANS MAY WISH TO CONSIDER A “MODEL SHIP SECURITY PLAN” DEVELOPED BY THE INTERNATIONAL CHAMBER OF SHIPPING (ICS). GIVEN THE NEED FOR EACH PLAN TO BE SHIP SPECIFIC, THE DOCUMENTATION ALSO INCLUDES A CD ROM VERSION WHICH MAY BE ADAPTED AS NECESSARY.

MEMBERS MAY OBTAIN A COMPLIMENTARY COPY OF THE ICS “MODEL SHIP SECURITY PLAN” FROM THE CLUB’S LOSS PREVENTION DEPARTMENT ON REQUEST.

YOURS FAITHFULLY
ASSURANCE FORENINGEN LTD

R J B SEARLE
PUBLICATION MANAGER

ASSURANCE FORENINGEN LTD.
Protection & Indemnity Association

NEWS

Mandatory P&I Coverage for all Vessels Calling at Iranian Ports

In our June 2004 Newsletter No.22 we reported that the port authority at Bandar Abbas had issued regulations requiring all steel hulled vessels over 150GT entering Iranian waters to hold a Certificate of Entry from a P&I Club.

We have since been advised by our local correspondents, Sea Pars Shipping Services Ltd, that the Bandar Imam Khomeini port authority has issued a circular 1400/5495 on 3 July 2004 stating that all tankers entering that port will now be required to submit a copy of their P&I Certificate of Entry along with their Arrival Notice. Failure to do so will result in permission being refused for the vessels call at the port.

It is not clear to what extent, if any, this later circular supersedes the regulations issued by the Bandar Abbas port authority.

Members are advised for the time being to ensure that steel hulled vessels, including tankers, have a Certificate of Entry on board ready to present to an Iranian port authority when the vessel enters Iranian waters.

Our correspondents have indicated that other Iranian ports are likely to follow suit. The Managers will keep Members informed.

Yours faithfully

P E Spendlove
Managing Director

NEWS

Japan: The law on liability for ship oil pollution damage

Following a major oil pollution incident in 2002 the Japanese Diet enacted The Law on Liability for Ship Oil Pollution Damage (the Act). This Act, which will take effect from 1 March 2005, extends the current legislation, which only covers tankers, to all ocean going vessels. The main aim of this act is to grant power to the Land, Infrastructure and Transport Ministry to bar uninsured ships from entering Japanese ports and to seek compensation for damage caused by oil leaks as well as the cost of removing wrecks.

From the effective date all ocean going vessels of 100 grt or more will be required to have compulsory insurance that covers bunker oil pollution and wreck removal expenses. The amount of the insurance required under the Act is broadly in line with the International Convention on Limitation of Liability for Maritime Claims 1976. For example a vessel of 10,000 grt will be required to have a minimum insurance cover of 7,421,000 Special Drawing Rights (SDR) of which 5,667,500 SDR's will be in respect of bunker oil pollution and 1,753,500 SDR's will be in respect of wreck removal. Proof of such insurance cover is required to be submitted to the Japanese Coast Guard before the vessel will be allowed to enter a Japanese port. The precise procedural steps by which Owners report their insurance status to the Authorities is still being formulated.

The Managers understand that if the shipowner has Designated Insurers insurance such as with an International Group P&I Club then the original or certified copy of the Certificate of Entry issued by the Club will be accepted by the authorities as proof of insurance.

The Act also empowers other government officers including Port State Control to board the vessel to inspect the relevant insurance certificate. If a certificate cannot be produced then the vessel will simply be denied entry to a Japanese port.

The Managers therefore recommend that all Members who have vessels trading to Japan should ensure that their vessels have a copy of their Certificate of Entry on board and ensure that a copy is provided to the relevant authority before entering a Japanese port.

For further information Members should contact the Managers.

P E Spendlove
Managing Director

ASSURANCE FORENINGEN LTD.
Protection & Indemnity Association

NEWS

Changes to the Panama Canal Transit Reservation (Booking) System

The Managers have been informed by Marine Insurance Services of Panama that there will be changes to the Panama Canal transit reservation booking system. These changes are detailed in the Panama Canal Authority's advisory to shipping no. A-14-2004 and will come into effect on 15 April 2004.

From 15 April 2004 there will be 21 authorised reserved transit slots which will be spread throughout the three booking periods. Of these 12 will be allocated for large vessels which are defined as having a beam of 27.74m or more. Three of the first seven transit slots in the first booking period will be available exclusively for commercial passenger vessels.

If the total number of vessels transiting the canal is projected by the Panama Canal Authority to be 90 or more for at least 2 consecutive days then the Authority may invoke Condition 3. If this Condition is invoked then no more than 4 large vessels will be booked for transit in the same direction. Condition 3 will also automatically trigger the higher booking fee prescribed by the Panama Canal Authority Official Tariff.

If Members wish to participate in the transit reservation scheme they must, prior to making a booking, furnish the Panama Canal Authority with the names and sample signatures of persons who on their behalf are authorised to provide payment of the vessels transit costs and booking fee.

To book a reservation for the start of any period a "Request for Transit Booking Form" should either be faxed or delivered by hand to Marine Traffic Control (MTC). Although MTC is able to receive forms 24 hours a day the forms will only be processed from 0930.

Requests received by MTC will generally be processed in the order that they are received. However, if a faxed and a hand delivered request are logged as having being received at the same after 0930 then the faxed request will be deemed to have been received first.

If the number of requests exceeds the number of reserved transit slots for any given period then the MTC will allocate vessels reserved slots according to the tie-breaker criteria. The customers with the highest ranking of Panama Canal business (an average based on the total number of transits and tolls paid in the preceding 12 months) will receive first preference for slots. If there are still spaces available then the MTC will allocate reserved transits on the basis of frequency of bookings, most recent transit and whether the vessel is carrying perishable cargo.

Full details of the above changes including a copy of the Request for Transit Booking Form can be found on the Panama Canal web site.

Yours faithfully
Assurance Foreningen Ltd

R J B Searle
Publication Manager

ASSURANCE FORENINGEN LTD.
Protection & Indemnity Association

NEWS

Canada: New Advance Commercial Information (ACI) Requirements

We are grateful to Messrs Borden Ladner Gervais LLP, Montreal for the following advice on Canada's new Advance Commercial Information requirements.

In common with the new US Automated Manifest System (AMS), Canada has drawn up similar regulations to enable the Canada Border Services Agency (CBSA) to identify goods of unknown or high risk. The initiative, termed the Advance Commercial Information (ACI) system, was developed in conjunction with AMS and will enter into force on 19 April 2004. It is highly unlikely that the implementation date will be deferred.

Reporting Parties

Cargo details are to be reported via the ACI system by the Marine Carrier. CBSA officials have indicated that the Marine Carrier is considered to be the party responsible for the cargo as evidenced by the ocean bill of lading or the contract of carriage. In the case of consortiums, each participant is responsible for reporting their own cargo. The cargo information required is set out in Customs Form A6A, a copy of which can be found at: http://www.cbsa-asfc.gc.ca/E/pbg/cf/a6a/a6a-00b.pdf.

Details concerning the vessel are to be reported via the ACI system by the Master Carrier, deemed by CBSA to be the party responsible for the operation of the ship which may include the owner, the manager or the time charterer. Customs Form A6 contains the necessary particulars: http://www.cbsa-asfc.gc.ca/E/pbg/cf/a6/a6-00b.pdf.

Carrier Code

In order to transmit the data, the Marine Carrier and the Master Carrier will each require a 9000 series Carrier Code which may be obtained by completing Customs Form E369 "Application to Transact Non-Bonded Carrier Operations at Point of Arrival in Canada". For more details see: http://www.cbsa-asfc.gc.ca/E/pbg/cf/e369/e369-99b.pdf. The completed form should be faxed to CBSA's Carrier & Cargo Policy Section at +1 613 957 9717. A Carrier Code is normally issued within two working days.

Carriers who wish to forward cargo in bond from a Canadian seaport overland to a Canadian destination must apply for a Carrier Code using Customs Form E370 "Application to Transact Bonded Carrier and Forwarding Operations". For more details see: http://www.cbsa-asfc.gc.ca/E/pbg/cf/e370/e370-00b.pdf.

Customs Bond

CBSA regulations currently require Carriers to post security in the sum of CAN $25,000 if they intend to forward cargo in bond from a Canadian seaport overland to a Canadian destination. However, no bond is required if the Carrier is not responsible for the inland movement of cargo or if a bonded highway carrier is used. It is understood that this policy will remain unchanged once compliance with ACI becomes mandatory.

A blank Customs Bond may be downloaded at http://www.cbsa-asfc.gc.ca/E/pbg/cf/d120/d120-e.pdf. For a list of CBSA-approved bond providers, see http://www.cbsa-asfc.gc.ca/E/pub/cm/d1-7-1/d1-7-1-e.html#appB.

A Customs Bond may be obtained for a single trip or on a general authorization basis. CBSA recommends that Carriers who transport more than five applicable shipments to Canada annually apply for the latter in order to expedite customs formalities.

Further information on Carrier Codes and Customs Bonds may be found at http://www.cbsa-asfc.gc.ca/carrier/ and within the following CBSA Memoranda:

D1-7-1 "Posting Security for Transacting Bonded Operations": http://www.cbsa-asfc.gc.ca/E/pub/cm/d1-7-1/d1-7-1-e.pdf

D3-1-1 "Regulations Respecting the Importation, Transportation and Exportation of Goods": http://www.cbsa-asfc.gc.ca/E/pub/cm/d3-1-1/d3-1-1-e.pdf

D3-5-2 "Marine Cargo – Import Movements": http://www.cbsa-asfc.gc.ca/E/pub/cm/d3-5-2/d3-5-2e.pdf

Submission of Cargo Information

CBSA currently offers five Electronic Data Interchange (EDI) options to enable Marine Carriers to make cargo declarations via ACI. Details of these options are available on CBSA's website at: www.cbsa-asfc.gc.ca/import/advace/faqs-e.html.

CBSA may also permit a third party service provider to transmit the required information on behalf of the Marine Carrier. A list of companies who have approached CBSA to express an interest in offering such a service may be found here. Further details may be obtained by contacting CBSA's Electronic Commerce Unit (Tel: +1 888 957 7224).

Once a third part service provider has been selected, the Marine Carrier and the service provider must complete an application and a Memorandum of Understanding, both of which must be sent to CBSA for authorisation before any cargo information is submitted. Alternatively, CBSA may be willing to accept an approved form specifying the Marine Carrier's full style, Carrier Code and method of EDI transmission.

Test Environment

Although CBSA has provided guidelines by which Marine Carriers must submit cargo and vessel data electronically, it is up to the parties themselves to develop the necessary forms to fulfill this task. No standard form or manifest has been created by CBSA. However, CBSA has established a test environment in which forms may be reviewed and evaluated, and where Marine Carriers may test the electronic transmission of data under the new ACI initiative.

Cargo to be Reported

The cargo data must include what CBSA terms a "detailed commodity description". Descriptions must be in plain language and detailed enough to allow CBSA officials to identify the size, shape, and characteristics of the goods. General descriptions such as "apparel", "electronics", and "equipment" are not acceptable, and should be replaced with more specific terms such as "clothing", "personal/household electronics" and "automotive equipment". Remarks such as "freight of all kinds", "said to contain", and "shipper's load, stow and count" are also unacceptable for the purpose of ACI reporting. However, Marine Carriers may continue to use such terminology on bills of lading.

Cargo Reporting Process

Marine Carriers must report cargo information electronically via ACI within a specified period of time prior to the vessel's arrival in Canada. Cargo loaded in the USA is not subject to such advance reporting requirements at the present time, although this may change once ACI has been fully implemented. Reporting requirements depend on the type of cargo being shipped.

Container cargo

Details of goods shipped to Canada in containers must be transmitted via ACI at least 24 hours prior to loading. The Marine Carrier will be permitted to load if CBSA does not issue a "Hold" notice within 24 hours of successful transmission of the cargo report.

Bulk cargo

Details of goods shipped to Canada in bulk must be transmitted electronically 24 hours prior to arrival in Canada. CBSA defines bulk cargo as being "goods that are loose or in mass, such that they are confined only by the permanent structures of a large container or a transport unit, without intermediate containment or intermediate packaging".

Other cargo including breakbulk cargo

For other cargo not shipped in containers or in bulk (eg breakbulk cargo), reporting is a two step process. The cargo data must be transmitted 24 hours prior to loading. If authorisation is granted, the cargo data must be transmitted again 24 hours prior to arrival in Canada. If no authorisation is received, the second report is to be made 96 hours prior to arrival.

Combined bulk and containerised cargo

In the case of a mixed cargo, containers must be reported 24 hours prior to loading at a foreign port and bulk cargo must be reported at least 24 hours prior to arrival in Canada.

Empty containers

Information regarding empty containers carried on board a vessel destined for Canada must be transmitted electronically 96 hours prior to arrival.

Transhipment cargo

If, after a cargo report has been transmitted electronically, cargo is removed from a vessel prior to arrival in Canada and transferred to another vessel for transportation to Canada, the cargo data must be re-transmitted at least 24 hours prior to transhipment.

Changes to cargo

All changes to cargo prior to loading will re-start the clock for reporting purposes.

Freight Remaining on Board (FROB)

Cargo loaded in another country for discharge after the vessel leaves Canada is termed Freight Remaining on Board (FROB). An ACI declaration is to be made for all FROB cargo (other than FROB cargo loaded in the USA) in accordance with the ACI reporting requirements applicable to the type of cargo concerned.

Vessel Reporting

Prior to arrival the Master Carrier must submit an ACI report containing ship identification details, capacities, voyage schedule and routing information. The timing of the submission depends on the type of cargo carried;

Vessels carrying containerised cargo	96 hours prior to arrival
Vessels carrying bulk cargo	24 hours prior to arrival
Empty containers	96 hours prior to arrival
Vessels carrying non-authorised break-bulk cargo	96 hours prior to arrival
Vessels carrying authorized break-bulk cargo	24 hours prior to arrival

In the case of voyages of less than 96 hours, an ACI submission regarding the cargo and the vessel is to be made at the time of departure.

Penalties

At the present time parties who do not comply with ACI reporting requirements are not liable for financial penalties. However, CBSA is currently in the process of reviewing the need for a penalty scheme. In the meantime failure to comply with ACI may result higher levels of scrutiny, delay, refusal to discharge or refusal to enter port.

Further Information

CBSA's website includes a "Frequently Asked Questions" section on ACI which may be found at http://www.cbsa-asfc.gc.ca/import/advance/faqs-e.html#2c.

CBSA's point of contact for general enquiries on ACI is Pauline Morris, Tel: +1 613 954 6353, Fax: +1 613 952 9979. Email: Pauline.Morris@ccra-adrc.gc.ca. Questions on "Marine Carrier" issues should be directed to Antoinette Rheaume, Tel: +1 613 954 7196, Fax: +1 613 952 9979, Email: Antoinette.Rheaume@ccra.adrc.gc.ca.

For all other queries please contact Mark Williams, Tel: +44 20 7716 6059, Fax: +44 20 7716 6061, Email: mark.williams@westpandi.com

Yours faithfully
Assurance Foreningen Ltd

R J B Searle
Publication Manager

News

Bunkering Procedures

Members will be aware that the consequences of a pollution incident during bunkering are becoming increasingly unpredictable. Any spill, no matter how small, may result in penalties and costs far outweighing the apparent gravity of the event, reinforcing the need for every shipowner to eliminate risks.

This Bulletin has been written in order to reiterate procedures which should be observed on board while a vessel is bunkering with a view to eradicating such risks. As a practical measure, the recommendations are summarized in the form of a check list either for direct use by the ship or to assist Members in reviewing or formulating their own versions. Utilizing a check list and following a predetermined routine can minimize the likelihood of important safeguards being overlooked.

Members requiring a more comprehensive account of prudent procedures relating to bunker and oil cargo operations are referred to the IMO publication on this subject entitled "Manual on Oil Pollution Section 1-Prevention" (ISBN 92-801-1152-3).

A senior engineer should always be appointed to co-ordinate and take charge of the bunkering plan, and it is intended that the check list be used by this officer. He should first ensure all crew members involved in the exercise are fully conversant with the specification and quantity of fuel to be lifted, the ship's fuelling and tank sounding arrangements, the alarm system and the loading sequence. It is of primary importance that all personnel on board aremade aware of the intention to bunker so that the vessel’s emergency response plan can be activated without delay should a spill occur in the event of an accident. In addition, it should not be forgotten that the bunkering facility itself may be the source of a spill, and the contingency arrangements of the barge or terminal should be checked and discussed beforehand.

Clear and detailed drawings of the vessel's bunkering system should be available for use by members of the ship's bunkering team during the operations. As well as aiding the routine checking of pipeline configurations, access to such diagrams may prove indispensable in an emergency.

When agreeing signaling procedures with the terminal or barge, Members are advised to consider using an audible alarm to supplement an emergency stop, recognizable by all parties. This additional defence may secure a swifter response than relying entirely on VHF contact or other methods of signaling.

To reduce the chance of misunderstandings still further, the key elements of the bunker plan may be summarized in writing and signed by both the responsible bunkering officer and the supplier as confirmation of mutual agreement.

During the course of bunkering, representative samples should be taken and retained. The subject of fuel specification and bunker sampling is expansive and extends beyond the general provisions of this Bulletin, therefore it is intended to circulate detailed advice regarding sampling procedures and bunker quality in the near future.

The duty officer should keep in close contact with the bunker team throughout. Moorings must be tended to ensure that the movement of the vessel is restricted to a minimum and that the ship, as far as practicable, is kept upright and on an even keel.

The Club's analysis of major claims established that the collective value of over-filling incidents in recent years has exceeded $3 million, and rapidly escalating penalties are progressively magnifying the risks. If these basic principles of bunkering are followed, exposure to associated losses can almost certainly be reduced.

Yours faithfully
Assurance Foreningen Ltd

R J B Searle
Publication Manager

BUNKERING CHECK LIST

Initial Preparation:	
Ensure all personnel are aware of intention to bunker and emergency response procedures	
Discuss bunkering plan and tank sequence with officers involved	
Close and secure all associated overboard discharge valves	
Close and blank off all unnecessary manifold valves/connections	
Plug all deck scuppers and make oil/watertight	
Empty out and plug save-alls	
Place oil absorbent materials in key locations	
Provide means of draining off any accumulations of water on deck	
Establish common communication link between bunkering station, duty officer and engine room	
Check all bunker tank air pipes are open and unblocked	
Ensure all sounding pipe caps are tight, except when sounding tank	
Reconfirm space remaining in all bunker tanks to be filled	
Check all bunker tank high level alarms are functioning	
Ensure all fire precautions are observed	

Prior to Bunkering:	
Check hose is of sufficient length	
Inspect hose and couplings for damage	
Check weight of hose does not exceed SWL of vessel's lifting gear	
Place drip trays under hose couplings and flanges	
Check delivery note quantity and specification are correct	
Discuss bunkering plan with supplier	
Discuss vessel's emergency response procedures with supplier	
Discuss supplier's own emergency response procedures	
Establish communication link between vessel and supplier	
Agree signalling system with supplier Commence Pumping	
Reduce Pumping Rate	
Cease Pumping	
Emergency Stop	
Agree with supplier the quantity of oil to be pumped aboard	
Agree unit of measurement (metric tonnes, cubic metres, barrels etc)	
Agree maximum pumping rate and pressure	
Carry out spot analysis with vessel's fuel test kit (if carried)	
Conduct compatibility test, if necessary	
Sight, agree and record shore/barge meter readings	
Appoint seaman to tend mooring lines during bunkering	
Rig fire wires fore and aft (if applicable)	
Ensure designated overflow tank is prepared	
Prepare filling line and open all relevant valves	

During Bunkering:	
Commence bunkering at minimum pumping rate	
Monitor supply line pressure	
Examine hose connections for leakage	
Reduce pumping rate and/or open next tank before topping up	
Close valves as each tank is completed	
Witness, date, jointly countersign and retain sealed bunker samples	
Ensure sufficient ullage in final tank for hose draining/line blowing	
Notify supplier when final tank is reached	
Give suppliers timely warning to reduce pumping rate	
Give suppliers timely warning to stop pumping	
Drain hoses on completion of bunkering and close all filling valves	

On completion of Bunkering:	
Ensure all hoses are fully drained	
Close and blank off manifold connection	
Blank off disconnected hose couplings	
Reconfirm all bunker line and tank filling valves are secured	
Reconfirm all bunker tank soundings	
Sight, agree and record shore/barge meter readings	
Verify all bunker receipt details are correct	
Complete entry in Oil Record Book	

News

BIMCO - AMS Charter Party Clauses

BIMCO has published voyage and time charter party clauses relating to the new US Automated Manifest System (AMS) requirements.

U.S. Customs Advance Notification/AMS Clause for Voyage Charter Parties

(a) If the Vessel loads or carries cargo destined for the US or passing through US ports in transit, the Owners shall comply with the current US Customs regulations (19 CFR 4.7) or any subsequent amendments thereto and shall undertake the role of carrier for the purposes of such regulations and shall, in their own name, time and expense:

i) Have in place a SCAC (Standard Carrier Alpha Code);
ii) Have in place an ICB (International Carrier Bond); and
iii) Submit a cargo declaration by AMS (Automated Manifest System) to the US Customs.

(b) The Charterers shall provide all necessary information to the Owners and/or their agents to enable the Owners to submit a timely and accurate cargo declaration.
The Charterers shall assume liability for and shall indemnify, defend and hold harmless the Owners against any loss and/or damage whatsoever (including consequential loss and/or damage) and/or any expenses, fines, penalties and all other claims of whatsoever nature, including but not limited to legal costs, arising from the Charterers' failure to comply with any of the provisions of this sub-clause. Should such failure result in any delay then, notwithstanding any provision in this Charter Party to the contrary, all time used or lost shall count as laytime or, if the Vessel is already on demurrage, time on demurrage.

(c) The Owners shall assume liability for and shall indemnify, defend and hold harmless the Charterers against any loss and/or damage whatsoever (including consequential loss and/or damage) and any expenses, fines, penalties and all other claims of whatsoever nature, including but not limited to legal costs, arising from the Owners' failure to comply with any of the provisions of sub-clause (a). Should such failure result in any delay then, notwithstanding any provision in this Charter Party to the contrary, all time used or lost shall not count as laytime or, if the Vessel is already on demurrage, time on demurrage.

(d) The assumption of the role of carrier by the Owners pursuant to this Clause and for the purpose of the US Customs Regulations (19 CFR 4.7) shall be without prejudice to the identity of carrier under any bill of lading, other contract, law or regulation.

Explanatory notes to the clause

US Customs Advance Notification/AMS Clause for Voyage Charter Parties

Introduction
The AMS Clauses have been produced by BIMCO to meet the requirements of US Customs regulations (19 CFR 4.7) under the Maritime Transportation Security Act of 2002. The AMS regulations relate to the automated filing of cargo manifests for all vessels loading or carrying cargoes destined for or passing through US ports. The regulations require one of the contract parties to assume the role of carrier for the purpose of submitting cargo information. That party must also obtain a SCAC (Standard Carrier Alpha Code) and, subsequently, an ICB (International Carrier Bond). The ICB is intended, primarily, as security for any fines relating to non-compliance with the rules.

It is IMPORTANT to note that because of the way in which the CBP rules may be interpreted in the context of a voyage charter party, the role of the owners as carriers may, in some circumstances, be reversed. Commercial practice or preference may favour the charterers assuming the role of carrier for individual voyages under a voyage charter. In such cases BIMCO recommends that the parties amend the voyage charter party clause to reflect the changed responsibilities.

Background
On Friday December 5, 2003 the Bureau of Customs and Border Protection (CBP), under the US Department of Homeland Security published new rules requiring the electronic submission of cargo manifest information in advance of a vessel's arrival at a US port. The new rules became effective for all vessels that have loaded cargo destined for US ports on or after 4 March 2004. However, due to the short implementation period a number of non-US bulk and break-bulk operators were unable to obtain the required ICB and it was agreed to extend the deadline for those types of vessel until 2 April 2004.

The provision of advance electronic cargo manifest information allows the CBP to screen cargo information through an automated targeting system. This enables the CBP to review shipment data against information stored in law enforcement and commercial databases in order to identify potentially high-risk shipments before they arrive at US ports.

Although the CBP rules define clearly the carriers' responsibilities, they are less clear in when it comes to establishing which of the commercial parties should assume the role of carrier. The CBP has stated that *"due to the complexity of the various contractual agreements and after meeting with vessel agent representatives, it was decided that the industry is in the best position to determine who the carrier is for automation purposes"*. The CBP has indicated that the carrier should be the entity who controls the vessel, which includes:

Determining the ports of call;

- Controlling the loading and discharging of cargo;
- Knowledge of cargo information;
- Issuing bills of lading;
- The entity that has typically provided the CF 1302 cargo declaration or the cargo information to prepare the CF 1302 to the vessel agent.

As mentioned in the introduction, in addition to the automated transmission of cargo manifest information, it is also the carriers' responsibility to establish an ICB.

It should be noted that according to the CBP rules, penalties, duties, tax or any other charge provided by law or regulation can be drawn on the bond. This means that the use of the ICB is not restricted solely to AMS related events.

Based on the advice from the CBP that the contractual parties should determine the identity of the carrier and in order to meet commercial demand for standard charter party wording, BIMCO has developed a set of clauses allocating responsibility for the various obligations under the AMS rules.

The BIMCO U.S. Customs Advance Notification/AMS Clauses were drafted with the assistance and co-operation of a number of P&I Clubs in the International Group. The AMS Clauses incorporate the provisions of the 24 Hour Rule Clauses published by BIMCO on 5 March 2003 and reflect the most recent regulatory changes regarding the filing of notices by various vessel types. As a result, the BIMCO 24 Hour Rule Clauses are now officially withdrawn.

AMS Clause for Voyage Charter Parties
This clause is similar to the AMS Clause for time charter parties except for a few minor amendments as highlighted below.

Sub-clause (a) identifies the owners as the carrier for the purpose of US customs regulation (19 CFR 4.7). The reasoning behind assigning the obligation to the owners is mainly commercial. A number of owners trading to the US on a regular basis will already have a SCAC and an ICB in place and P&I Clubs have actively encouraged their members to obtain a SCAC and ICB. Thus, it is commercially viable to let the owners assume the role of carrier for the purpose of the AMS rules. Furthermore, it is often the owners who issue bills of lading and control the discharging operation. It must, however, be emphasized that if the parties decide that they would prefer the roles to be reversed to suit their own commercial arrangements, then they should feel free to amend the clause accordingly.

Since the owners assume the role of carrier and have in place the ICB, SCAC and supply all the necessary cargo information to the US-customs, it was felt necessary to include in sub-clause (b), a provision whereby the charterers are obliged to provide all the necessary cargo information enabling owners to submit the cargo declaration in a timely fashion. Furthermore, an indemnity provision was included to hold the owners harmless against any loss or damage whatsoever arising out of the non-compliance by the charterers with the obligations in sub-clause (a).

Sub-clause (c) indemnifies the charterers for loss and/or damage arising from the owner's failure to comply with the regulation as it has been outlined in sub-clause (a). The sub-clause further outlines that any delay which may arise as a consequence of failure to comply, shall not count as laytime or, if the vessel is already on demurrage, as time on demurrage.

Finally, consistent with the Time Charter Clause, sub-clause (d) expressly provides that the owners assuming the role of carrier, will not prejudice the identity of carrier under any bill of lading, other contract or regulation.

If you require any further explanation of the AMS Clauses, please contact Grant Hunter, Senior Manager, Documentary Department (e-mail: documentary@bimco.dk).

US Customs Advance Notification/AMS Clause for Time Charter Parties

(a) If the Vessel loads or carries cargo destined for the US or passing through US ports in transit, the Charterers shall comply with the current US Customs regulations (19 CFR 4.7) or any subsequent amendments thereto and shall undertake the role of carrier for the purposes of such regulations and shall, in their own name, time and expense:

i) Have in place a SCAC (Standard Carrier Alpha Code);
ii) Have in place an ICB (International Carrier Bond);
iii) Provide the Owners with a timely confirmation of i) and ii) above; and
iv) Submit a cargo declaration by AMS (Automated Manifest System) to the US Customs and provide the Owners at the same time with a copy thereof.

(b) The Charterers assume liability for and shall indemnify, defend and hold harmless the Owners against any loss and/or damage whatsoever (including consequential loss and/or damage) and/or any expenses, fines, penalties and all other claims of whatsoever nature, including but not limited to legal costs, arising from the Charterers' failure to comply with any of the provisions of sub-clause (a). Should such failure result in any delay then, notwithstanding any provision in this Charter Party to the contrary, the Vessel shall remain on hire.

(c) If the Charterers' ICB is used to meet any penalties, duties, taxes or other charges which are solely the responsibility of the Owners, the Owners shall promptly reimburse the Charterers for those amounts.

(d) The assumption of the role of carrier by the Charterers pursuant to this Clause and for the purpose of the US Customs Regulations (19 CFR 4.7) shall be without prejudice to the identity of carrier under any bill of lading, other contract, law or regulation.

Explanatory notes to the clause

U. S. Customs Advance Notification/AMS Clause for Time Charter Parties

Introduction
The AMS Clauses have been produced by BIMCO to meet the requirements of US Customs regulations (19 CFR 4.7) under the Maritime Transportation Security Act of 2002. The AMS regulations relate to the automated filing of cargo manifests for all vessels loading or carrying cargoes destined for or passing through US ports. The regulations require one of the contract parties to assume the role of carrier for the purpose of submitting cargo information. That party must also obtain a SCAC (Standard Carrier Alpha Code) and, subsequently, an ICB (International Carrier Bond). The ICB is intended, primarily, as security for any fines relating to non-compliance with the rules.

It is IMPORTANT to note that because of the way in which the CBP rules may be interpreted in the context of a voyage charter party, the role of the owners as carriers may, in some circumstances, be reversed. Commercial practice or preference may favour the charterers assuming the role of carrier for individual voyages under a voyage charter. In such cases BIMCO recommends that the parties amend the voyage charter party clause to reflect the changed responsibilities.

Background
On Friday December 5, 2003 the Bureau of Customs and Border Protection (CBP), under the US Department of Homeland Security published new rules requiring the electronic submission of cargo manifest information in advance of a vessel's arrival at a US port. The new rules became effective for all vessels that have loaded cargo destined for US ports on or after 4 March 2004. However, due to the short implementation period a number of non-US bulk and break-bulk operators were unable to obtain the required ICB and it was agreed to extend the deadline for those types of vessel until 2 April 2004.

The provision of advance electronic cargo manifest information allows the CBP to screen cargo information through an automated targeting system. This enables the CBP to review shipment data against information stored in law enforcement and commercial databases in order to identify potentially high-risk shipments before they arrive at US ports.

Although the CBP rules define clearly the carriers' responsibilities, they are less clear in when it comes to establishing which of the commercial parties should assume the role of carrier. The CBP has stated that *"due to the complexity of the various contractual agreements and after meeting with vessel agent representatives, it was decided that the industry is in the best position to determine who the carrier is for automation purposes"*. The CBP has indicated that the carrier should be the entity who controls the vessel, which includes:

- Determining the ports of call;
- Controlling the loading and discharging of cargo;
- Knowledge of cargo information;
- Issuing bills of lading;
- The entity that has typically provided the CF 1302 cargo declaration or the cargo information to prepare the CF 1302 to the vessel agent.

As mentioned in the introduction, in addition to the automated transmission of cargo manifest information, it is also the carriers' responsibility to establish an ICB.

It should be noted that according to the CBP rules, penalties, duties, tax or any other charge provided by law or regulation can be drawn on the bond. This means that the use of the ICB is not restricted solely to AMS related events.

Based on the advice from the CBP that the contractual parties should determine the identity of the carrier and in order to meet commercial demand for standard charter party wording, BIMCO has developed a set of clauses allocating responsibility for the various obligations under the AMS rules.

The BIMCO U.S. Customs Advance Notification/AMS Clauses were drafted with the assistance and co-operation of a number of P&I Clubs in the International Group. The AMS Clauses incorporate the provisions of the 24 Hour Rule Clauses published by BIMCO on 5 March 2003 and reflect the most recent regulatory changes regarding the filing of notices by various vessel types. As a result, the BIMCO 24 Hour Rule Clauses are now officially withdrawn.

AMS Clause for Time Charter Parties
Sub-clause (a) defines the charterers as the carrier for the purpose of US customs regulation (19 CFR 4.7). Furthermore, the sub-clause assigns the responsibility for compliance with the regulation to the charterers and, as a precaution, it requires the charterers to provide the owners with timely confirmation that the ICB and SCAC are in place.

Sub-clause (b) indemnifies the owners for any loss or damage arising as a consequence of the charterers' non-compliance with the rules. A special provision has been inserted to deal with the question of hire during periods when delay occurs as a result of the charterers' failure to comply with the regulation as outlined in sub-clause (a); in these instances the vessel will remain on hire.

According to the AMS rules, and as mentioned earlier other charges than those relating to the AMS regulation under the particular charter party can be drawn on the ICB. Sub-clause (c) provides that the charterers will be reimbursed for charges drawn on the ICB, when these charges are solely the responsibility of the owners.

Sub-clause (d) expressly provides that, the charterers assuming the role of carrier, does not prejudice the identity of carrier under any bill of lading, other contract or regulation.

If you require any further explanation of the AMS Clauses, please contact Grant Hunter, Senior Manager, Documentary Department (e-mail: documentary@bimco.dk).

The clauses may be accessed at: BIMCO

http://www.bimco.dk/Corporate%20Area/Misc%20Documents/Advance%20NotificationAMS%20Clauses%20for%20Time%20and%20Voyage%20Charter%20Parties.aspx

Yours faithfully
Assurance Foreningen Ltd

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Publication Manager

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news

Argentina- New Spill Contingency Plan Requirements for Foreign Flag Oil Tankers

Pandi Liquidadores, the Club's correspondents in Buenos Aires, have advised that the owners or operators of foreign flag oil tankers due to call at ports in Argentina must appoint a local Oil Spill Response Organisation (OSRO) prior to arrival. In addition, the oil spill contingency plans of tankers which trade regularly to Argentina must be worded to comply with national regulations and require the approval of the Argentine authorities in this respect.

Background

In 1998 Argentina introduced a national contingency plan in accordance with the International Convention on Oil Pollution Preparedness, Response and Co-operation 1990 (OPRC 90). The owners of Argentine flagged vessels were required to submit the oil spill contingency plans of their ships to the Environmental Protection Department (EPD) of the Prefectura Naval Argentina (PNA) for approval, and to take responsibility for clean up operations in the event of a spill either directly or by nominating a local OSRO to act on their behalf.

Requirements

The requirements were recently extended and now apply to all foreign flag oil tankers calling at ports in Argentina as follows:

1. Foreign flag oil tankers trading in coastal waters with an exemption permit granted under cabotage law must ensure that their contingency plans comply with Annex 18 and Annex 21 of Ordinance No 08/98 Book 6 DPMA and also meet with EPD approval. For a copy of Annex 18, see: http://www.prefecturanaval.gov.ar/organismos/dpma/plan_contingencia/anexo18_ingles.pdf.
2. Foreign flag oil tankers which call at Argentine ports only occasionally are required to comply with statutory Shipboard Oil Pollution Emergency Plan (SOPEP) requirements as prescribed by Regulation 26 of Annex I to Marpol 73/78. Before entering Argentine waters the vessel's port agents are to advise the PNA of the route that the vessel will follow, the amount of cargo on board and the name of the local OSRO appointed by the owner or operator.
3. The owners or operators of foreign flag oil tankers trading to Argentina on a regular basis must appoint a local OSRO and are also required to ensure that such vessels carry a contingency plan which complies with Annex 18 of Ordinance No 08/98. Two copies of the plan, written in Spanish, are to be submitted to the EPD for approval at least 30 days prior to the arrival of each vessel. These may be filed via the owner's local agent.

Additional Information

Owners who wish to appoint a particular company to act as their OSRO in Argentina should make sure that the organisation concerned is a PNA-approved provider of oil spill response services. A list of the companies which have already obtained such approval may be found at: http://www.prefecturanaval.gov.ar/organismos/dpma/ingles/empre_prestadoras.htm.

It is understood that foreign flag oil tankers not complying with these regulations may not be allowed to enter Argentine waters. Further information may be obtained from the PNA by e-mail at: larroz@prefecturanaval.gov.ar or dpma-re@prefecturanaval.gov.ar.

Club Comment and Advice

Argentina is a party to the 1992 CLC and Fund Conventions, therefore the decision to require owners to pre-contract with an OSRO is at variance with the usual practice of CLC governments undertaking the clean up at the owner's expense. Consequently, consideration is being given to approaching the Argentine government to explore the possibility of modifying these requirements.

In the meantime, Members who anticipate sending a vessel to an Argentine port in the near future are invited to contact the Managers for guidance. In particular, Members are advised not to enter into any contract with an Argentine response contractor without first checking with the Managers to ascertain whether or not cover may be available in respect of liabilities assumed under such contracts.

P E Spendlove
Managing Director

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