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COMPENSATION
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FOURTH INTERSESSIONAL
WORKING GROUP
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NON-TECHNICAL MEASURES TO PROMOTE QUALITY SHIPPING FOR CARRIAGE OF OIL BY SEA

THE CLC CERTIFICATION PROCESS IN GERMANY

Submitted by Germany

Summary:	This information document sets out the procedures followed by the German Maritime Administration when granting certificates attesting that insurance is in place in accordance with the 1992 Civil Liability Convention (CLC Certificates).
Action to be taken:	Information to be noted.

1 Introduction

- 1.1 The 1992 Fund's fourth intersessional Working Group was set up to consider 'Non-technical measures to promote quality shipping for the carriage of oil by sea'.
- 1.2 At the 1st meeting of the Working Group in May 2006, the Chairperson stated that, in the interests of promoting quality shipping, it would be beneficial if all States had common standards and adopted the same checks and procedures to be followed when insurance certificates were issued. She also encouraged States to share information on practices (document 92FUND/A.11/28, 92FUND/WGR.4/3, paragraph 7.2.5).
- 1.3 The German practices in this regard are set out below.

2 Process of Certification

- 2.1 The 1992 Civil Liability Convention (1992 CLC) requires the owner of a ship carrying more than 2 000 tons of persistent oil in bulk as cargo to maintain insurance or other financial security to cover his liability for pollution damage (Article VII (1) 1992 CLC). The competent authority of each Contracting State shall issue a certificate attesting that insurance or other financial security is in force in accordance with the provisions of the 1992 CLC (Article VII (2) 1992 CLC).
- 2.2 In Germany, the 1992 CLC entered into force on 30 May 1996. It was implemented by the Oil Pollution Damage Act (Ölschadengesetz) and the Oil Liability Certification Regulation (Ölhaftungsbescheinigungs-Verordnung). According to this legislation, CLC Certificates are issued by the "Bundesamt für Seeschifffahrt und Hydrographie" (BSH) (Federal Maritime and Hydrographic Agency), part of the Government's Department for Transport, Building and Urban Development.

- 2.3 Applications to BSH for a CLC Certificate shall be in writing and shall contain certain details with respect to the shipowner (name, address of the principal place of business) as well as the ship (name, port of registration, registered tonnage). In addition, the applicant has to provide proof of financial security, usually in the form of a Blue Card. In the Blue Card, an insurer confirms that an insurance policy or other financial security satisfying the requirements of the 1992 CLC is in force. For ships not flying the German flag, the ship's agent resident in Germany must also enclose a power of attorney of the ship's owner. BSH charges a fee of €125 for the initial issue of a CLC Certificate. The fee for every subsequent CLC Certificate is €85. Further details of the certification process as well as a model for a CLC Certificate are set out in Annexes I and II respectively.
- 2.4 The CLC Certificate is issued for a maximum period of 12 months. It shall not exceed the period of validity of the financial security. BSH can withdraw the CLC Certificate if it occurs that the mandatory requirements for its issue are no longer met or if the applicant has provided incorrect or incomplete information in the application.
- 2.5 Article VII (2) of the 1992 CLC provides that CLC Certificates may only be issued by a State Party for ships registered in that State Party or in a non-Contracting State. CLC Certificates may not be issued for ships registered in other States Parties to the 1992 CLC.
- 2.6 In 2006, BSH issued 29 CLC Certificates to ships registered in Germany.

3 Penalties

- 3.1 If the shipowner contravenes the provisions of the Oil Pollution Damage Act requiring that adequate financial security is in force, he commits a criminal offence. As a consequence, he may be fined or even imprisoned for up to two years. Furthermore, the "See-Berufsgenossenschaft" withdraws the Ship Safety Certificate.
- 3.2 If the shipowner fails to provide his ship with a CLC Certificate or if the master fails to carry a CLC Certificate on board or to produce it on demand, they shall be liable on conviction to a fine not exceeding € 5 000. In addition, the transport of more than 2 000 tons of oil in bulk or the transshipment of oil may be prohibited.
- 3.3 A ship may not enter or leave a port or terminal in Germany unless there is in force a valid CLC Certificate. The Water Police carries out mandatory checks on board of ships carrying more than 2 000 tons of oil in bulk.
- 3.4 Since 1999, no German vessel has been detained in a foreign port for failure to provide a CLC Certificate. Since 1993, no foreign-flagged vessel inspected in Germany under the Port State Control regime has been detained for failure to provide a CLC Certificate.

4 Action to be taken by the Working Group

The Working Group is invited to take note of the information contained in this document.

ANNEX I

Excerpt from www.bsh.de

Civil Liability for Oil Pollution Damage

- 1 The International Convention on Civil Liability for Oil Pollution Damage of 29 November 1969 with the Protocol of Amendments, 1992, is an international treaty which constitutes the legal basis for individual claims against persons liable for maritime pollution that has been caused by the release or discharge of oil from tank vessels. Also ships capable of carrying oil and other cargoes, which actually carry oil as cargo or have residues of such carriage aboard, come under the Convention. Under the Convention, compensation for impairment of the environment is limited to the costs of reinstatement measures actually undertaken or to be undertaken and to the costs of reasonable measures to prevent or limit pollution damage. The Convention applies not only to pollution damage on the territory, including the territorial sea, of a State Party to the Convention but also in its Exclusive Economic Zone. The owner of a tank vessel is entitled to limit his or her liability under the Convention in respect of any one incident to an aggregate amount calculated as follows (since 1 November 2003):

- 4.510 million units of account for a ship not exceeding 5,000 units of tonnage
- for a ship with a tonnage in excess thereof, 631 units of account in addition to the above amount for each additional unit of tonnage.
- the maximum liability is 89.77 million units of account.

The unit of account is the Special Drawing Right of the International Currency Fund. This unit is defined as the sum of the fixed amounts of four international currencies (exchange rate in early March 2005: 1.16007 Euro).

In the Federal Republic of Germany, the Convention of 1992 entered into force on 30 May, 1996. By August 2004, 101 States had become Party to the Convention.

- 2 If the insurance cover under the Convention is not sufficient, the International Oil Pollution Compensation Fund (IOPC Fund 92) established on the basis of the Protocol covers the balance up to a total amount of 203 million units of account (since 1 November 2003). The Fund is financed by contributions from the petroleum industry, the amount of contributions depending on the imported oil volume. An additional Fund to be established is to ensure compensation (including insurance cover and supplemental cover by the IOPC Fund 92) up to 750 million units of account (about 870 million Euros).
- 3 The owner of a seagoing ship carrying a bulk cargo of more than 2,000 tons of oil, which reaches the territorial waters of Germany or passes through them, is responsible for ensuring that a Civil Liability Certificate (CLC – also called Blue Card) is carried on board the ship. The Blue Card guarantees that sufficient insurance cover or other financial security to compensate for pollution damage is available, in compliance with the Convention. The owner of a seagoing vessel carrying more than 2,000 tons of oil in bulk is guilty of a criminal offence if the particular vessel navigates in the area covered by the Oil Pollution Damage Act without insurance being in force. German flagged vessels lose their Safety Certificates in such cases. A ship's owner failing to provide his or her ship with the mandatory Ship Safety Certificate has committed an administrative offence. The same applies to the vessel's master who fails to carry the certificate on board or to produce it on request. Fines of up to 5,000 Euro may be imposed for such administrative offences. Besides, the transport of more than 2,000 tons of oil in bulk or the transshipment of oil may be prohibited. The Water Police carries out mandatory checks on board such ships.

Also ships from states that are not parties to the 1992 Liability Convention, when navigating German territorial waters, must have a Civil Liability Certificate on board which covers the amount stated in the 1992 Liability Convention.

German sea-going ships as well as ships from states which are not parties to the 1992 Liability Convention intending to navigate the German territorial waters require a Civil Liability Certificate.

Ships from other Contracting States of the 1992 Liability Convention require Certificates issued by their respective States.

A Civil Liability Certificate which has been issued by a Contracting State under the 1992 Liability Convention is recognized by all other Contracting States.

To obtain a Civil Liability Certificate, a so-called "Blue Card" issued by the insurer (P&I Club - Protection and Indemnity) is required for the ship to be insured. In the Blue Card, the insurer confirms to the competent administrative authority of a Contracting State that a policy of insurance or other financial security satisfying the requirements of the 1992 Liability Convention is in force.

To apply for the Certificate, the Blue Card, which includes a reference to the BSH and is not transferable, has to be submitted to the BSH complete with the ship's data. For ships not flying the German flag, the ship's agent resident in the Federal Republic of Germany must enclose a power of attorney of the ship's owner (sample) with the application. The BSH charges a fee of EUR 125 for the initial issue of a Civil Liability Certificate. The validity of the Certificate is maximally 12 months. The insurance year begins on 20 February each year. The fee for every subsequent Civil Liability Certificate is EUR 85. It loses its validity if the ship's ownership or flag changes.

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ANNEX II

Bundesrepublik Deutschland
Bundesamt für Seeschifffahrt und Hydrographie

Federal Republic of Germany
Federal Maritime and Hydrographic Agency



Bescheinigung
über die Versicherung oder sonstige finanzielle Sicherheit
für die zivilrechtliche Haftung für Ölverschmutzungsschäden

Certificate
of Insurance or other Financial Security
in respect of Civil Liability for Oil Pollution Damage

Ausgestellt nach Artikel VII des Internationalen Übereinkommens von 1992 über die zivilrechtliche Haftung für Ölverschmutzungsschäden.

Issued in accordance with the provisions of Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1992.

Name des Schiffes	Unterscheidungssignal	Heimathafen	Name und Anschrift des Eigentümers
Name of ship	Distinctive number or letters	Port of registry	Name and address of owner

Hiermit wird bescheinigt, dass für das vorgenannte Schiff eine Versicherungspolice oder sonstige finanzielle Sicherheit nach Maßgabe des Artikels VII des Internationalen Übereinkommens von 1992 über die zivilrechtliche Haftung für Ölverschmutzungsschäden besteht.

This is to certify that there is in force in respect of the above-named ship a policy of insurance or other financial security satisfying the requirements of Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1992.

Art der Sicherheit Blue Card
Type of Security _____

Geltungsdauer der Sicherheit _____
Duration of Security _____

Name und Anschrift des (der) Versicherers (Versicherer) und / oder Sicherheitsgebers (Sicherheitgeber)
Name and Address of the Insurer(s) and / or Guarantor(s)

Name _____
Name _____

Anschrift _____
Address _____

Diese Bescheinigung gilt bis 20. Februar 200x
This certificate is valid until _____

Ausgestellt oder bestätigt von der Regierung der Bundesrepublik Deutschland,
Bundesamt für Seeschifffahrt und Hydrographie

Issued or certified by the Government of the Federal Republic of Germany,
Federal Maritime and Hydrographic Agency

in / at Hamburg am / on _____
Datum / Date

ÖH xx/200x

(Unterschrift und Amtsbezeichnung des ausstellenden oder bestätigenden Bediensteten)
(Signature and Title of issuing or certifying official)