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LEGAL COMMITTEE
94th session
Agenda item 5

LEG 94/5/4
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PROVISION OF FINANCIAL SECURITY

(ii) Follow-up on resolutions adopted by the International Conference on the Removal of Wrecks, 2007: development of a single model compulsory insurance certificate

Submitted by the International Chamber of Shipping (ICS) and the International Group of P&I Associates (P&I Clubs)

SUMMARY

<i>Executive summary:</i>	This document comments on the note and draft model for a single insurance certificate submitted by the IMO Secretariat (LEG 94/11)*
<i>Strategic direction:</i>	2
<i>High-level action:</i>	2.1
<i>Planned output:</i>	Not applicable
<i>Action to be taken:</i>	Paragraph 9
<i>Related document:</i>	LEG 94/11**

1 The International Chamber of Shipping (ICS) and the International Group of P&I Associates (P&I Clubs) support the development of a model single insurance certificate, which may be issued by States Parties to the relevant IMO liability and compensation Conventions. However, the initiative should only be pursued if it will lead to a reduced administrative burden on States and shipowners/insurers when compared with the extant system prescribed by the Conventions.

2 The ICS and the P&I Clubs have the following comments in relation to the note and draft model certificate submitted by IMO Secretariat (see document LEG 94/11)** , which is intended to facilitate the discussions on this item.

* Please see document LEG 94/11/Corr.1.

** Document LEG 94/11 should be renumbered as LEG 94/5/3.

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3 As noted by the IMO Secretariat, a model single insurance certificate can only be a recommended alternative to the certificates prescribed by the relevant IMO liability and compensation Conventions. Therefore, much will depend on whether States are ultimately satisfied that the format is acceptable given that it cannot follow word for word the individual forms prescribed in the Conventions. We suppose that the format will have to be accepted by all States Parties to all Conventions in force so that any States which prefer to continue with the present system will recognize single certificates issued by other States. It should be possible to reach a non-binding acceptance through an IMO Assembly Resolution annexing the single certificate format, but given that this would be non-mandatory and that it would be unlikely that all port authorities in all IMO States would become aware of it immediately, there could be a risk of delays of entry into port because of non-acceptance of the single certificate.

4 The co-sponsors agree with the practical problems identified in paragraph 7 of the IMO Secretariat's submission. In particular, whether only States Parties to all of the Conventions referred to in a single certificate would be able to issue single certificates, and whether they would be prepared in practice to do so for ships flagged in non-Parties States if not calling at the State Party's ports/terminals. This, of course, is the practical problem which shipowners and their insurers have faced in the lead up to the entry into force of the Bunkers Convention.

5 The resolution adopted by the International Conference on the Removal of Wrecks invited IMO to follow the reciprocal recognition procedure used for 1969 and 1992 CLC certificates. Does this mean, for example, that State A (party to 1992 CLC and Bunkers) should be able to issue a single certificate in respect of 1992 CLC and Bunkers to a ship flagged in State B (party to 1992 CLC only) on presentation of a 1992 CLC certificate issued by State B? The requirement on the registered owner to obtain a 1992 CLC certificate from the ship's flag State arises by virtue of Article VII(2) of 1992 CLC. However, this requirement would have the effect of adding to the administrative burden because the shipowner would have to obtain a 1992 CLC certificate from State B first before applying to State A for a single certificate. This scenario has been provided to highlight the sort of questions that will need to be resolved during consideration of the proposal for a single certificate. We suggest however that the aim of reduced administration could be achieved if States were to agree, through a common understanding, that a ship is able to obtain all certifications from State A via a single insurance certificate in respect of the Conventions to which State A is a party and need not apply first to its own flag State for certificates to which the flag State is a party.

6 The practical utility of the single certificate will be reduced if the Athens Convention is not also included, and the inclusion of wording to cover the Athens Reservation/Guidelines should not be ruled out. Consideration should be given to whether the model single certificate should allow for all combinations of certificates that the various types of ships will need.

7 Another practical issue is the interface between the proposed model single insurance certificate and the electronic databases to maintain records of certificates as contemplated in the Bunkers (Article 7(13)) and Athens Conventions (Article 4*bis*(14)) (and possibly the revised HNS Convention). Such electronic databases could potentially reduce the administrative burden on States to a greater extent than the proposed single certificate and could obviate the need for a single certificate.

8 The ICS and the P&I Clubs suggest that the proposal for a model single insurance certificate may not be straightforward to implement because it raises a number of legal and practical issues. Accordingly, work during the intersessional period between LEG 94 and LEG 95 may be required in order to progress the proposal. The co-sponsors believe that any such work during the intersessional period could usefully look at the question of the electronic

databases mentioned in paragraph 7 of this document as well. Although the establishment of such databases is a decision to be made by individual States, it may be appropriate to consider whether any work on them could be coordinated amongst those States wishing to follow this route at some future point.

Action requested of the Committee

9 The Committee is invited to note the information provided and take action as appropriate.
