

4 ALBERT EMBANKMENT  
LONDON SE1 7SR  
Telephone: +44 (0)20 7735 7611 Fax: +44 (0)20 7587 3210

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## **GUIDANCE ON THE IMPACT OF THE SITUATION IN THE BLACK SEA AND THE SEA OF AZOV ON INSURANCE OR OTHER FINANCIAL SECURITY CERTIFICATES**

1 At the thirty-fifth extraordinary session of the IMO Council, relating to the conflict in Ukraine, the Council requested that IMO committees consider ways to enhance the efforts of Member States and observer organizations in supporting affected seafarers and commercial vessels, consider also the implications of this situation for the implementation of the Organization's instruments, take appropriate action and report back to Council.

2 In accordance with this request, the Legal Committee notes the following implications for IMO instruments under its purview:

- .1 The International Convention on Civil Liability for Oil Pollution Damage, 1969 (1969 Civil Liability Convention), the Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969 (1992 CLC Protocol), the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (2001 Bunkers Convention), the Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 (2002 Athens Protocol) and the Nairobi International Convention on the Removal of Wrecks, 2007 (2007 WRC) require that State Parties issue certificates attesting that insurance or other financial security is in force which meets the requirements of the conventions.
- .2 Due to recent sanctions against Russian banks and other interests, including prohibitions on certain origin cargoes and ships from the Russian Federation, insurers or other financial security providers will be required to comply with the applicable sanctions or measures in their respective jurisdictions. The introduction of these economic sanctions may in some cases restrict the insurers or other financial security providers referred to in the certificate from processing claims or prohibit the payment of claims arising under these conventions. This could lead to the insurer or financial security provider cancelling the coverage.
- .3 The absence of insurance or other financial security in accordance with the requirements of the conventions may lead to insufficient compensation for States and victims of pollution and other incidents. It may also expose the IOPC Funds and its contributors to the risk of having to pay all of the compensation for oil spills from tankers because there is not sufficient insurance to cover the shipowner's liability.

- 3 Against this background, the Legal Committee recommends the following actions:
- .1 If a State Party to the following conventions has issued certificates pursuant to Article VII of the 1969 Civil Liability Convention, Article 7 of the 1992 CLC Protocol, Article 7 of the 2001 Bunkers Convention, Article 4*bis* of the 2002 Athens Protocol and Article 12 of the 2007 Nairobi WRC, the issuing State or its designated authority should ensure that it cancels the certificate in accordance with the conventions if or when they receive notification of termination of the insurance or other financial security.
  - .2 In the meantime, State Parties to these conventions should continue to honour their obligations by complying with the recommendations set out in Circular Letter No.3464 and this guidance.
  - .3 In particular, flag or certifying States issuing certificates based on Russian insurers or Russian financial security providers should verify that the coverage meets the criteria outlined in Circular Letter No.3464. Port States encountering certificates involving Russian insurers or financial security providers should consult with the issuing or certifying State whose responsibility is to ensure that the insurance or financial security remains adequate, as called for in the IMO liability and compensation conventions.
- 4 The Committee requests that Member States bring the contents of this circular to the attention of the managers of their shipping registries, port State control authorities and other interested parties.
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