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THE HONG KONG SHIPOWNER ASSOCIATION LTD.

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Ms. Debbie Yau
Clerk to Bills Committee on
Bunker Oil Pollution (Liability and Compensation) Bill
The Legislative Council Secretariat
The Legislative Council
8 Jackson Road
Central, Hong Kong

By E-mail: cpnien@legco.gov.hk

2nd September 2009

Dear Ms. Yau,

**Bills Committee on
Bunker Oil Pollution (Liability and Compensation) Bill**

Thank you for the invitation to our Association to give our views on the Bunker Oil Pollution (Liability and Compensation) Bill. In addition to this submission, and as previously advised, Mr. Edward Lee, Kwok Leung, a member of our Executive Committee, will attend the meeting of the Bills Committee on 9th September in order to give further oral evidence, if required.

The International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001, entered into force on 21st November 2008. The Convention is the result of thorough discussion and consensual agreement by the 166 member States and 3 associate members (including Hong Kong SAR) of the International Maritime Organisation, the specialized agency of the United Nations based in London.

The Convention was adopted by the IMO member States to ensure that adequate, prompt and effective compensation is available to persons who suffer damage caused by spills of oil, when carried as fuel in ship's bunkers. As at 31st July 2009, 42 IMO member States have ratified the Convention.

A key component of the Convention is the need for the registered owner of a vessel to maintain compulsory insurance cover. A Certificate of Financial Security is issued by the appropriate authority after confirmation that the insurance so provided is in accordance with the requirements of the Convention. The Certificate is to be carried on board the ship.

While the Convention only requires ships registered in a State Party to maintain the necessary insurance cover, in practice all ships engaged in international trade and likely to trade to State Parties to the Convention are required to carry the Certificate of Financial Security. Ships that do not carry the required certification are unlikely to be admitted into the coastal waters or ports of State Parties, severely restricting their trading opportunities.

Certificates of Financial Security may only be issued by a State Party to the Convention; ships registered in non-State Parties must obtain the necessary certification from State Parties. While there are State Parties that are willing to provide the necessary certification to ships registered in non-State Parties once the insurance has been shown to be in accordance with the Convention requirements, this is not an easy process and takes time, which could result in delays to ships.

It is unfortunate that Hong Kong was not ready to adopt the provisions of the Convention into local legislation before the Convention became international law in November 2008. It is also unfortunate that Hong Kong was not ready to adopt the Convention in December 2008 when the mainland ratified its provisions and applied them to Macau SAR.

Owners of the over 1,200 ocean-going ships registered in Hong Kong now have a definite disadvantage in that they must obtain the necessary certification through lengthy application to State Parties. Hong Kong is well regarded as an International Maritime Centre, but it is evident that delays in the extension of international law into local legislation do not send the right signal to the owners of ships registered in Hong Kong, or to the rest of the world.

This Association, in common with the majority of the international shipping fleet, has always supported the early entry into force of international conventions that have been adopted by the IMO. It is only through such early ratification that a level playing field is established for our industry. Additionally, we fully support liability and compensation conventions that are designed to provide early and no-fault compensation to the victims of pollution related accidents.

We urge the Legislative Council urgently to pass the Bunker Oil Pollution (Liability and Compensation) Bill. We also urge the Hong Kong Government and the Legislative Council to consider the application of direct reference for legislation that has been adopted in the IMO and is set to become international law. By such early action on the adoption of internationally agreed conventions, Hong Kong will maintain its position as an attractive and well-regarded International Maritime Centre.

Thank you for your kind attention.

Yours sincerely,

A handwritten signature in black ink that reads "Arthur Bowring". The signature is written in a cursive, slightly slanted style.

Arthur Bowring
Managing Director

Cc: Peter Cremers, Chairman
Edward Lee, Member of the Executive Committee