



**Justisdepartementet  
Lovavdelingen  
Postboks 8005 Dep  
0030 OSLO**

Oslo, 25. juni 2012

Deres ref.: 201202868 EP TOF/mk

Vår ref.: VTK-jur

**Høringsuttalelse: Gjennomføring i norsk rett av**

**1) Europaparlaments- og rådsdirektiv 2009/20/EF om skipsrederes forsikring mot sjørettslige krav, og 2) kommisjonsforordning (EU) 285/2010 om endring av Europaparlaments- og rådsforordning (EF) 785/2004 om forsikringskrav for luftfartsselskap og luftfartsoperatører**

Vi viser til Deres ekspedisjon av 23.4.2012 om gjennomføring av de ovennevnte EU-direktiv i norsk rett hvor Cefor er oppført som høringsinstans. Vi ber igjen departementet merke seg at foreningens navn ble i 2009 endret til The Nordic Association of Marine Insurers (Cefor).

**1) Europaparlaments- og rådsdirektiv 2009/20/EF om skipsrederes forsikring mot sjørettslige krav**

Vi har ingen kommentarer til ordlyden i de foreslåtte endringer i sjøloven og forslaget til ny forskrift om sertifikat som nevnt i utkastet til sjølovens § 182a.

Som en følge av ovenstående tiltrer vi departementets forslag om å utpeke rederen som pliktsubjekt for tegning av den pliktige ansvarsforsikringen, slik som i den danske sølovs § 153 og utkastet til 2 § i 7 kap. i den svenske sjölagen.

I høringsnotatet til ovennevnte ekspedisjon diskuterer ikke departementet hvilke sjøgående strukturer som er å anse som skip etter utkastet til sjølovens § 182a. Det tør være kjent at norske verft som inngår avtaler om å bygge og levere skip lar skrogene bygge i utlandet, ofte i Asia, og får skroget slept til verftet for ferdigstilling. Skrogene leveres med tanker som i de fleste tilfeller er fylt med bunkers- og smøreolje. For å være på den sikre siden, har norske byggerisikoassurandører begynt å utstede forsikringsattest som tilfredsstillende direktivets krav til verftene som igjen sørger for at dokumentasjonen er om bord i slepebåten. Slike skrog er for øvrig å anse som skip etter Bunkerskonvensjonen, og for skrog over 1000 bt utsteder byggerisikoassurandøren attest for ansvarsforsikring.

**The Nordic Association of Marine Insurers**

Hansteens gate 2 – Box 2550 Solli, N-0202 Oslo, Norway

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Når det gjelder kravet til assurandøren som dekker rederansvaret, merker vi oss med tilfredshet at utkastet til forskrift kun stiller krav til sertifikatets innhold, ikke til hvilken assurandør som dekker rederansvaret. Vi viser til vårt vedlagte brev til de nordiske departementene som er ansvarlig for skipsfartspolitikken hvor vi uttrykker håp om likebehandling av assurandører som dekker rederansvaret, men som ikke er med i International Group of P&I Clubs (IG). Norske kystkaskoassurandører dekker rederansvaret for fartøy opp til 1000 bt. Det er vårt syn at en myndighetspraksis som favoriserer sertifikater utstedt av P&I-klubbene i IG ikke har hjemmel i direktivet og vil virke konkurransevridende. Vi har mottatt svar på vårt brev fra det svenske Justitiedepartementet som bekrefter vår forståelse av direktivet og det svenske forslaget til endring i sjölagen. Brevet vedlegges.

Avslutningsvis vil vi bemerke at kravet om tvungen ansvarsforsikring av skip over 300 bt vil for assurandørene og rederiene kun innebære en kodifisering av gjeldende praksis. Vi kjenner ikke til noe rederi med skip i den størrelse uten ansvarsforsikring.

**2) Kommisjonsforordning (EU) 285/2010 om endring av Europaparlaments- og rådsforordning (EF) 785/2004 om forsikringskrav for luftfartsselskap og luftfartsoperatører**

Vi har ingen kommentarer til de foreslåtte endringer i luftfartsloven og forskriften av 6.7.2004 nr 1101.

Vennlig hilsen  
The Nordic Association of Marine Insurers (Cefor)  
  
Viggo Kristensen



Trafik- och kommunikationsministeriet  
Postboks 31  
00023 Statsrådet  
Finland

Oslo, 11 April 2012

**EU DIRECTIVE 2009/20 ON THE INSURANCE FOR SHIPOWNERS FOR MARITIME CLAIMS – RECOGNITION OF INSURANCE CERTIFICATES (ARTICLE 6) ISSUED BY INSURERS WHICH ARE NOT MEMBERS OF THE INTERNATIONAL GROUP OF P&I CLUBS**

The Nordic Association of Marine Insurers (Cefor) represents marine insurers in the Nordic countries. Our objective is to enhance the Nordic marine insurance market and promote the members' common interests on key issues for the marine insurance industry. We have members in all four Nordic countries and several of our members have branch offices two or more Nordic countries. Two of our members, Gard and Swedish Club, are also members of the International Group of P&I Clubs (IG).

The purpose of this letter, which is also addressed to the relevant ministries in the other Nordic countries, is to raise a matter of concern to our members who are not IG members relating to the issue of insurance certificates pursuant to Article 6 of the abovementioned EU Directive.

According to Article 3 (b), the insurance required under the Directive is defined as an “insurance with or without deductibles, and comprises, for example, indemnity insurance of the type currently provided by members of the International Group of P & I Clubs, and other effective forms of insurance (including proved self insurance) and financial security offering similar conditions of cover”.

Paragraph 3 of Article 4 states further that the “insurance referred to in paragraphs 1 and 2 shall cover maritime claims subject to limitation under the 1996 Convention. The amount of the insurance for each and every ship per incident shall be equal to the relevant maximum amount for the limitation of liability as laid down in the 1996 Convention.”

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The International Group of P & I Clubs has liaised with each EU Member State to determine whether they will accept an IG Club issued certificate of entry as evidence of compliance with the Directive for both Port State and Flag State purposes. A significant number of EU Member States is said to have indicated that they will accept a standard IG Club issued P&I certificate of entry carried on board ships of 300gt or more as evidence that the necessary insurance cover is in place under the Directive.

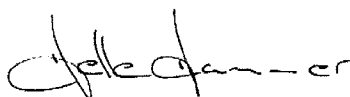
The question is how the EU member states will react to insurance certificates issued by insurers who are not members of the IG. It is common practice in the Nordic countries for hull insurers to also cover liability insurance for fishing vessels and small ships. As an example please find attached a certificate issued by our member Alandia.

Cefor holds the opinion that insurance certificates issued by insurers registered in an EU/EEA country and operating under the relevant insurance legislation of this country should be accepted as evidence of insurance in line with certificates of entry issued by IG clubs.

Cefor therefore requests that the Nordic maritime ministries ensure that there is no discrimination against insurers which are not IG members who issue insurance certificates as stated in the abovementioned Directive.

If needed, we would welcome the opportunity to meet with you to discuss the issue and provide you with additional information.

Yours sincerely,  
The Nordic Association of Marine Insurers (Cefor)



Helle Hammer  
Managing Director

Identical letters sent to:

Erhvervs- og Vækstministeriet  
Slotsholmsgade 10-12  
1216 København K  
Danmark

Nærings- og handelsdepartementet  
Postboks 8014 Dep.  
0030 Oslo  
Norge

Näringsdepartementet  
103 33 Stockholm  
Sverige



PB 121, AX-22101 MARIEHAMN, ÅLAND, FINLAND

Telefon nr. / Phone: +358 (0)18 29000

Fax: +358 (0)18 12290

## CERTIFICATE OF INSURANCE

**Registered Owner:**

**Insurance number:**

**Period:**

**Vessel:**

**IMO No:**

**Call sign:**

**Port of Registry:**

**Insurer:**

Försäkringsaktiebolaget Alandia  
PB 121  
AX-22101 Mariehamn  
Finland

### **Alandia P&I Insurance Rules 1.1.2011**

#### **Scope of Insurance Cover**

This Insurance covers the named Assured and the Vessel named in this Policy in accordance with the applicable Insurance Rules for Alandia P&I and subject to the special terms and exclusions stated in this Policy.

#### **Limit of liability**

The maximum liability payable under this Insurance is limited to EUR 75 millions, each vessel and occurrence.

THIS IS TO CERTIFY that there is in force in respect of the above-named ship while in the above ownership a policy of insurance satisfying the requirements of Article 4 No. 3 of Directive 2009/20/EC of the European Parliament and of the Council of 23 April 2009 on the insurance of shipowners for maritime claims where and when applicable. This insurance covers liability for maritime claims subject to the 1976 convention on Limitation of Liability for Maritime Claims as amended by the 1996 Protocol and the cover under this insurance is limited to the maximum amounts of limitation as laid down in the said 1996 Protocol.

Date: 14 February 2012

This Certificate has been issued by the insurer Försäkringsaktiebolaget Alandia.

Leif Nordlund  
Managing Director



REGERINGSKANSLIET

Promemoria

2012-05-02

Dnr Ju2012/3297/L3

**Justitiedepartementet**

Enheten för immaterialrätt och transporträtt  
Rättssakkunniga Mirja Högström  
E-post [mirja.hogstrom@justice.ministry.se](mailto:mirja.hogstrom@justice.ministry.se)

MOTTATT 07 MAI 2012

**Letter concerning Directive 2009/20/EC of the European Parliament and of the Council of 23 April 2009 on the insurance of shipowners for maritime claims**

Dear Madame,

Thank you for your letter regarding insurance certificates issued by insurers which are not members of the International Group of P&I Clubs.

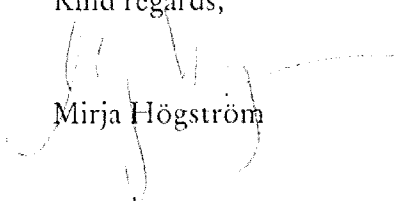
The Swedish proposal does not require a specific kind of certificate. On the contrary, the government indicates that the evidence of insurance actually can vary depending on the type of insurance the shipowner has chosen (see further p. 30 - 33 and p. 46 - 47 in prop. 2001/12:111, link enclosed). The main thing is that the obligation to have an insurance covering maritime claims is fulfilled. In Swedish legislation this means that the insurance must cover the liability that the shipowner may limit according to our Maritime Code chapter 9 section 1-4 and up to the amount described in chapter 9 section 5 in the Maritime Code. That this is covered, should be clear from the certificate.

The proposal is currently in our national Parliament, which will take a decision later this month. The legislation will come into force on the 1st of July this year.

I hope this answers your question. I enclose a link to the proposal.

<http://www.regeringen.se/content/1/c6/18/88/03/89d047c0.pdf>

Kind regards,

  
Mirja Högström

Kopia till Transportstyrelsen