

# GLOBALPANDI

## *Circular for P & I Clubs*

*DATE: 15<sup>th</sup> AUGUST 2011*

***Correspondents for:***

***Britannia, British Marine, Charterers P&I Club, GARD, ITIC, Navigators, Nordisk Defence Club (Through Sabatino Pizzolante), North of England P&I Club, Raets Club, Shipowners P&I Club, Skuld, South of England, Steamship Mutual, The American Club, The London P&I Club, West of England and Through Transport Club (TTC).***

### ***Fines imposed by the Harbor Master at Puerto Cabello***

Lately there has been an increase in the number of fines imposed by the Harbor Master at Puerto Cabello, Venezuela, either related to the repairing of engines at berth or anchorage at non authorized zones. The purpose of this Circular is to increase awareness and recommend steps that the master may take to minimise the risk of claims in such circumstances.

Title VI of the Law on Merchant Marine and Related Activities, whose last amendment was published in the Official Gazette No. 37,570 dated 14th November 2002, contains provisions concerning liabilities, fines and procedures in connection with these activities. Level of fines varies according to the nature of the infraction (minor, serious, more serious and most serious) payable in Tributary Units, 1 T.U. at the moment is valued in Bs. 76,00 (equivalent to US\$ 17.67), giving rise to administrative proceedings which although faced in first instance by ship agents as representative of the ship, will affect the Members at last.

The law lists as serious infractions subject to the payment of fines from fifty one Tributary Units (51 T.U.) to one hundred and fifty Tributary Units (150 T.U.), among others, the following activities: Those responsible for activities or operations not authorized by Aquatic Authorities; those ships which anchor at zones not conditioned for such anchoring, without a previous consent given by the Aquatic Authority; those ships which sail without previous consent given by the Aquatic authorities; and those that dispose of ballast, debris or any garbage on Venezuelan territorial waters, including ports, docks and navigation channels.

In the last weeks our office has seen a raising number of cases related to unauthorized repair of engines at berth or anchorage at unauthorized zones in the proximities of the port of Puerto Cabello, resulting in the application of fines either because the authorization to carry out said repairs has not been obtained or the notification not made to the maritime authority. In such events the maximum fine might not appear to be significant (USD 2,651.00 or so), but in practice the application process could result in an unlawful retention or delays in the issuance of the port clearance, due to the attitude of some officials to condition the port clearance until the submission of a letter of compromise for payment by ship agents or the signature by the former of the notification of fine.

It is important to point out that whenever the Harbor Master considers the application of a fine, then an administrative procedure must be opened and notified to the offender, so as to be able to submit their writing of discharge as allowed by the due process. It follows that said letter of compromise is unlawful, equally any attempt to delay the port clearance arguing that the notification must be first signed, as this will be ultimately made by the ship agent.

Therefore, Members are suggested to obtain authorization from the Harbor Master to carry out repair of engines, as well as for any anchorage outside the three official zones namely Alpha, Bravo and Charlie. Additionally, ship agents should be warned not to submit any letter of compromise for payment of fine or signing any notification in connection with it until being given specific instructions to this end. Local Correspondents should be immediately contacted to assist with the local maritime authority.

**Should you need any assistance or further information regarding the topic stated above, please feel free to contact:**

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