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Circular for P&I Clubs

DATE: 20th JANUARY 2020

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Britannia, British Marine, Carina, Charterers P&I Club, China P&I Club, EF Marine, GARD, Hydor, ITIC, Korea P&I Club, NNPC, Nordisk Defence Club (Through Sabatino Pizzolante), North of England P&I Club, MS Amlin, Shipowners P&I Club, Skuld, The Standard P&I Club, Steamship Mutual, The American Club, The London P&I Club, Thomas Miller Specialty, West of England and Through Transport Club (TTC)

Dues and Tariffs for services rendered in connection with shipping and ports payable in Petros (PTRs)

The subject was treated in our Circulars dated 6 April and 4 May 2018 (searchable at www.globalpandi.com), to which we refer the readers for background. As it should be recalled the Petro (PTR) is said to be a cryptocurrency or digital currency, launched by the Venezuelan government in 2018, in order to circumvent U.S. sanctions. In March 2018 there was an attempt by the National Institute of Aquatic Spaces (known as the INEA by its acronym) to make services such as pilotage and towage supplied to foreign flagged ships payable in Petros, an idea later set aside. Now in a move regarded as a way to boost this method of payment, reducing the country's dependence on foreign currencies, the National Executive issued the Decree 4,096 published in the Official Gazette Extraordinary No. 6,504 dated 14 January 2020, according to which all dues, contributions, tariffs, commissions, surcharges and public prices payable in foreign currency to governmental agencies must be paid in Petros.

Article 4 of the Decree lists a number of services that must exclusively be paid in Petros. Among those services are found: 1.- Dues payable to the National Institute for Canals (Instituto Nacional de Canalizaciones or INC) for the use of the Maracaibo and Orinoco navigation canals, as per article 17 of the governing law; 2.- The tariffs for services rendered by the port administrator Bolivariana de Puertos, S.A. (Bolipuertos, S.A.), prescribed by article 7, numeral 1, of the Joint Resolution No. 065 of 28 August 2017

published in the Official Gazette No. 42,227 dated 1 September 2017; and, 3.- The services rendered by the INEA referred to in the First Final Disposition of the Resolution No. 033 of 2 May 2018, published in the Official Gazette No. 41,389 dated 3 May 2018. Therefore, in practical terms following the publication of the Decree, the use of the navigation canals in Lake Maracaibo and Orinoco River payable to the INC; pilotage, towage, launch and re-floating services, custody and logistic launches rendered by the INEA to foreign flagged ships, as well as stevedoring, storage and cargo handling renting services supplied by Bolipuertos, S.A. to same ships are all payable in Petros.

It is interesting to mention that dues payable to the Hydrographic office (OCHINA) for the use of lights and buoys as well as dues payable to Bolipuertos, S.A. related to anchorage, dockage, wharfage, etc., prescribed by the Law on Port Dues (Decree No. 1,397 of 13 November 2014, published in Official Gazette 6,150 Extraordinary dated 18 November 2014) are not expressly mentioned and so outside the scope of the Decree under review, although these omissions could be amended to be eventually included. This compulsory payment in Petros, on the other hand, also extends to aviation fuel and airport tariffs and incentives payable in foreign currency to the National Institute of Civil Aviation or INAC, Maiquetía airport (IAIM) and airports administered by Bolivariana de Aeropuertos, S.A. (BAER), as stated in Articles 2 and 4, subsection f.

Nevertheless, it is important to point out that according to Article 6, subsidiaries of Petróleos de Venezuela, S.A. (PDVSA) as well as the mixed companies in the hydrocarbons sector are excluded from the application of the Decree. Further, in the light of Article 7 the President of the Bolivarian Republic of Venezuela may grant a waiver to the governmental agencies in respect of the use of Petros as a mechanism of payment.

Unfortunately, the Decree in reference has been published without consultation nor any *vacation legis* to ensure its due implementation, giving rise to concerns and various questions. As a matter of fact, on 17 January the INEA called ship agents for an urgent meeting, to explain details about the use of the Petro, registration in the Superintendency of Crypto-Actives (SUNACRIP) to open the wallet, making it clear that the Decree will be implemented with immediate effect. In other words, payments will be made by ship agencies that must register in the SUNACRIP by filing certain documentation. Once this public agency verifies the documents, a "PetroWallet" will be validated and activated for each agent. This wallet allows the use of Petros, Bitcoins, Litecoins, Dash and other crypto-currencies. The digital coin can be obtained through seven authorised private exchange agencies able to receive Bolivars, Dollars, Euros, Bitcoins, Dash and others to be exchanged later for Petros.

By using the SINEA, an online system of the INEA, ship agents will be able to pay in Petros through their PetroWallet.

This compulsory payment of services in Petros is of great concern for the maritime community, particularly given the Executive Order No. 13827 of March 2018, which provides: “*Sec. 1 (a) All transactions related to, provision of financing for, and other dealings in, by a United States person or within the United States, any digital currency, digital coin, or digital token, that was issued by, for, or on behalf of the Government of Venezuela on or after January 9, 2018, are prohibited as of the effective date of this order*”; whereas Sec. 2 states: “*(a) Any transaction that evades or avoids, has the purpose of evading or avoiding, causes violation of, or attempts to violate any of the prohibition set forth in this order is prohibited. (b) Any conspiracy formed to violate any of the prohibition set forth in this order is prohibited*”. Although General Licence No. 30 issued by the OFAC in connection with the E.O. No. 13884 of 5 August 2019, authorizes all transactions and activities involving the Government of Venezuela “that are ordinarily incident and necessary to operations or use of ports and airports in Venezuela”, transactions involving any digital currency, digital coin or digital token, “issued by, for, or on behalf of the Government of Venezuela” are excluded from the GL No. 30.

We are currently completing our assessment on this matter, gathering more information and making the necessary enquiries to the INEA and Bolipuertos, S.A., in order to clarify the existing gaps in which case we will revert with an update in due course.

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

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