

Notices to Members

No. 5 - Taiwan Marine Pollution Control Act and Compulsory Insurance

June 2005

Dear Sirs

TAIWAN MARINE POLLUTION CONTROL ACT AND COMPULSORY INSURANCE

The Marine Pollution Control Act of Taiwan was promulgated by presidential order on November 1, 2000. The Act specifically addresses liability for marine oil spills, as well as issues of prevention and response in relation to both marine and land-based pollution. The Environmental Protection Administration (EPA) is the competent authority under the Act.

The Act provides that the shipowner shall be liable for damage caused by pollution of the sea by a ship, but the Act does not provide for defences or limits of such liability. The term 'shipowner' is defined to include owner, lessee, agent and operator of a ship. The law requires the shipowner to provide insurance or guarantee to cover liability under the Act for tankers over 150gt and all other types of ships over 400gt. The Act also allows claimants to sue the insurer or guarantor directly. The Enforcement Rules of the Act issued by EPA on September 2001 gave details of the forms of guarantee that may be provided, but did not expand on the other alternative of liability insurance. Various categories of punishment for pollution are also provided for, including fines and prison terms.

The geographic jurisdiction of the Act extends as far as the EEZ.

On August 5, 2004, the EPA issued a circular giving effect to the compulsory insurance or guarantee provisions of the Act. The amounts of liability insurance coverage or guarantee required in accordance with the Act are as follows:

1. Tankers over 150gt:
 - tankers between 150gt and 5000gt: SDR4,510,000
 - tanker above 5,000gt: for each ton in excess of 5,000, an addition of SDR 631per ton, subject to a maximum of SDR89,770,000.
2. Other vessels over 400gt or chemical vessels over 150 gt: SDR400 per ton, or SDR350,000, whichever is greater.
3. Fishing vessels or salvage vessels: SDR200/ton.

These insurance or guarantee requirements will take effect from July 1st, 2005.

The International Group has been discussing with the Taiwan government whether insurance provided by Clubs in the International Group can be used to satisfy the requirements. Although this discussion is not yet concluded, it is hoped that the EPA will, for the purpose of the Act, decide to accept as adequate evidence of insurance Certificates of Entry issued by Clubs in the International Group, as is already done in Japan, Australia, India, California and Alaska. The Authorities have also indicated that a grace period may be granted in order to allow owners to have ample time to comply with the Act.

The Managers will continue to monitor developments in relation to evidence of insurance required under the Act and will provide further guidance in due course.

Yours faithfully

West of England Insurance Services (Luxembourg) SA
(As Managers)

C A G Havers
Director