

No. 21 2012/2013 - Regulations of the People's Republic of China on the Prevention and Control of Marine Pollution from Ships

November 2012

Translations: Chinese  Vietnamese 

Dear Sirs

Regulations of the People's Republic of China on the Prevention and Control of Marine Pollution from Ships

We refer Members to previous Notice to Members on the Regulations of the People's Republic of China (PRC) on the Prevention and Control of Marine Pollution from Ships ("the Regulations") and the requirement that owners/operators of (a) any ship carrying polluting and hazardous cargoes in bulk or (b) any other ship above 10,000 gt enter into a pollution clean-up contract with a Maritime Safety Agency (MSA) approved ship pollution response company (SPRO) before the ship enters a PRC port.

Prior to the entry into force of the Regulations on 1 January 2012, Members were advised of the new requirements along with a recommended IG spill response contract and authorisation letter for agents to negotiate and sign the contract on behalf of overseas operators. A set of Frequently Asked Questions (FAQs) has since been issued by all IG Clubs to assist owners in complying with the requirements and lists of all China MSA approved contractors have also been published on the Club's website on an ongoing basis following publication by the China MSA.

On 14 September, the China MSA issued revised Detailed Rules on the Implementation of the Administration Regime of Agreement for Ship Pollution Response amending the Detailed Rules previously issued by the China MSA which came into effect on 1 January 2012. The revised Detailed Rules had immediate effect. At the same time, the China MSA repealed a number of Notices on implementation of the Regulations, which has resulted in some changes to the spill response requirements that have been in force since 1 January 2012. A further MSA Notice is expected shortly. Once this Notice has been issued a revised set of FAQs will be published.

The China MSA has issued an amended model spill response contract as an annex to the revised Detailed Rules. The model contract consists of only two articles (both of which are mandatory), but expressly provides that supplemental articles may be included as part of the agreement between the operator and approved contractor. A revised IG recommended spill response contract, is therefore attached to this Notice to Members, the content of which does not differ substantially from the previous IG recommended contract. The revised contract includes the two mandatory articles contained in the amended model contract issued by the China MSA. These mandatory articles introduce two new requirements that of booming during ship-to-ship transfers and a requirement that the SPRO assists in joint emergency exercises (Article 2.4 and 2.5). The IG has maintained contact with the China MSA and understands that the IG's recommended contract attached to this Notice to Members is consistent with the revised Detailed Rules.

Members have previously been advised of the terms of contracts which are required in other jurisdictions and those

contracts that conform with the International Group Guidelines on vessel response plans, see Notice to Members No. 3 2009/2010. The recommended contract attached conforms with the International Group's Guidelines. Any Member requested to agree to a variation of the attached recommended contract is advised to check with the Managers to ensure that such variations do not cause the contract to fall outside the scope of the IG Guidelines.

If Members are in any doubt about the contract then it is recommended that they contact the Managers before contracting with any SPRO.

All Clubs in the International Group of P&I Clubs have issued similar notices.

Yours faithfully

For: **West of England Insurance Services (Luxembourg) S.A.**
(As Managers)

A Paulson
Director

 Sample Agreement 2012