

No. 4 2011/2012 - Japan

March 2011

Dear Sirs,

JAPAN

Members will be concerned to know as much as they can about the consequences of the devastating earthquake off the Japanese coast last week. The situation is changing rapidly from day to day, particularly so far as nuclear risks arising from damage to the power plant at Fukushima are concerned. Whilst the current flow of information about the overall situation in Japan is considerable, we hope that the following may be of assistance:

The situation in Japanese ports and shipyards

Our correspondents in Tokyo advise that the following ports in south to north order are reported to have been seriously damaged: Kashima, Hitachinaka, Hitachi, Onahama, Soma, Sendai, Shiogama, Ishinomaki, Kesennuma, Ofunato, Kamashi, Miyako and Hachinohe. It appears that they may not be operational for several months or for even longer periods which may extend to years.

All other ports are reported by our correspondents to be working normally, but Members are advised to check with their agents or with the ports concerned to obtain up to date information about port operations and port safety if any of their vessels are scheduled to call at Japanese ports. Our correspondents advise that major steel mills such as Nippon Steel, JFE and Sumitomo Metal located at the ports of Muroran, Kashima, Kimitsu (Kisarazu), Kawasaki, Nagoya, Wakayama, Kakogawa, Mizushima, Fukuyama and Oita, are not directly affected by the disaster except for Sumitomo Metal terminal at Kashima which has been damaged. Most of the major shipyards are located outside the damaged areas and are reported to be undamaged by the earthquake and tsunami.

There may be a significant amount of debris in the sea near the affected coastline and account needs to be taken of possible changes in the shape of the seabed as a result of the tsunami and earthquake.

General sources of information

In addition to information published by the media, the following websites may be of assistance in providing further information relevant to shipping operations:.

The International Atomic Energy Agency

Nuclear and Industrial Safety Agency of Japan

Government of Japan Incident Website

Japan Meteorological Agency

Japan Coast Guard Navigation Warnings

Nuclear risks

Exposure of vessels' crews and other personnel to radiation will be of paramount concern to Members. Vessels and cargo on board may also be exposed to damage by nuclear contamination, giving rise to claims for loss of or damage to ship and cargo and decontamination and disposal costs and the risk of refusal of port entry.

Technical guidance in respect of exposure to radiation may be found at the following websites:

IAEA Safety Series No. 115, International Basic Safety Standards for Protection against Ionizing Radiation and for the Safety of Radiation Sources

International Commission on Radiological Protection (ICRP)

In relation to exposure to radiation of crews and other personnel it would be advisable for members to consult with the vessels flag state as well as the authorities of the state(s) of the nationality of the crew about obtaining specialist advice on risks to health and measures to prevent and deal with radiation exposure arising from the Fukushima accident or a similar event.

In those cases where Members have concerns about the impact of the earthquake and its consequences on their contractual rights and obligations, particularly under charterparties or contracts of carriage and/or in relation to radiation exposure, it would be advisable to seek legal advice. While it is likely to be the case that under most legal regimes Members would not be obliged to perform contractual obligations which are likely to cause personal injury or damage to property by radiation or otherwise, each case will depend on its particular facts, the contract terms and the applicable law.

In assessing their response to the events in Japan, Members should bear in mind that liability arising from nuclear risks such as may arise from the incidents at the Fukushima power plant is excluded from Club cover by Rule 15 of the Club's Class 1 Rules, although the Board retains discretion to provide such cover. This exclusion applies to the International Group Pooling agreement and is contained in the Rules of all International Group Clubs.

As and when information becomes available which may be of further assistance, we shall report further to you.

Yours faithfully

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

R J B Searle
Director