

MEMBER ALERT



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JAPAN EARTHQUAKE & TSUNAMI: GENERAL INFORMATION AND ISSUES

As Members are doubtless aware from recent news reports concerning the unfolding tragedy in Japan, there are numerous port closures and an unresolved and still developing situation at earthquake damaged nuclear facilities Fukushima Daiichi, Onagawa and Tokai.

A. Port Closures

Lloyd's List of 15th March reports that the ports of Kashima, Hitachinaka, Hitachi, Onahama, Soma, Sendai, Shiogama, Ishinomaki, Kesenuma, Ofunato, Kamashi, Miyako and Hachinohe have all suffered serious damage, and suggests that these ports will be out of operation for a significant amount of time. Clearly, the situation in Japan is changing on a daily basis and Members who have vessels that are expected to either call at Japanese ports or to transit the region are recommended to check with their agents for current information. See website of our correspondent ISS P&I Japan for additional information (<http://www.iss-shipping.com/NewsDetails.aspx?newsid=5462>)

B. Radiation Exposure

The precise scope of the danger posed by the potential spread of radioactive emissions from the damaged nuclear plants is subject to too many variables to predict with accuracy. While the suffering of the Japanese people remains uppermost in the minds of all, insofar as member potential losses are concerned (which may include a broad range of risks, although crew exposure to radiation is the most significant) it should be noted that there is a general exclusion from cover for all losses arising from nuclear risks under Class I Rule 3.1,2, titled "Risks Excluded" from cover as follows:

Nuclear Risks

- 2. Ionizing radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel; the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof; or any weapons or devices employing atomic or nuclear fission and/or fusion or other like reaction of radioactive force or matter.***

It should further be borne in mind that the risks posed by these radioactive elements cannot necessarily be overcome by avoidance of the exclusion zone promulgated by Japanese authorities as contamination outside of the area can certainly be spread by weather.

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For additional information see:

Government of Japan Incident Website
(<http://www.kantei.go.jp/foreign/topics/2011/earthquake2011tohoku.html>)

Japan Coast Guard Navigation Warnings
(<http://www1.kaiho.mlit.go.jp/TUHO/nwe.html>)

Nuclear and Industrial Safety Agency of Japan
(<http://www.nisa.meti.go.jp/english/index.html>)

The International Atomic Energy Agency
(<http://www.iaea.org>)

C. Compliance with Voyage Instructions

Whether an owner can refuse to comply with his charterer's order to proceed to a specified port will depend, as is to be expected, upon the facts of each case and the law governing the contract(s) at issue. There is a risk that if an owner were to decline to proceed to any Japanese port upon the basis of objectively unjustified concerns about radiation, that refusal could well amount to a breach of contract. However, the objective requirement should be interpreted by reference to all available authorities, which Members are urged to consider. In this regard, the Club's Managers stand ready to assist.

Members whose vessels are ordered to ports, or to proceed through waters, in the vicinity of Fukushima are advised to obtain the latest publicly available advice concerning radiation levels and to consult with the relevant Flag State and the authorities in the country from which the crew originate. Members who may be considering terminating a voyage, or discharging cargo elsewhere than at the original intended port, are recommended to contact the Managers in order to seek advice upon the existing cover, and/or upon special arrangements to cover potential liabilities arising from deviation.

If you have any questions, please feel free to contact your Managers.