

RÉPUBLIQUE GABONAISE
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ADMINISTRATION MARITIME



GABONESE REPUBLIC
UNION – WORK – JUSTICE

MARITIME ADMINISTRATION

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To : Representatives of Gabon flagged vessels, Deputy Registrars, Ship-owners & Ship-operators, Masters, and Flag State Surveyors.

Subject: “People’s Republic of China (PRC) law on the prevention and control of environmental pollution by solid wastes – effective September 1, 2020”.

Scope: This Merchant Marine Circular aims to inform interested parties related to the International Ship Register of Gabon upon a new revision to the PRC Law on the Prevention and Control of Environmental Pollution by Solid Wastes (new Revision), which becomes effective on September 1, 2020.

References:

- a.** Revised Law of the People’s Republic of China on the Prevention and Control on Environmental Protection by Solid Wastes (revision 2020).
- b.** International Group of P&I Members Circulars on the Law of the People’s Republic of China on the Prevention and Control on Environmental Protection by Solid Wastes (revision 2020).

Summary: A new revision to the PRC Law on the Prevention and Control of Environmental Pollution by Solid Wastes (new Revision), which becomes effective on September 1, 2020, imposes joint and several liability on both the carrier and importer for the return and disposal of the solid waste where the solid waste is prohibited and/or proper license has not been obtained, and significantly increases the fines that can be imposed for violations. Interested parties should also be aware that the PRC intends to reduce the import of solid wastes during the latter half of 2020 and that all solid wastes will be prohibited from import into the PRC from January 1, 2021. As a result, from this date the licensing regime will no longer be in place for the import of solid wastes.



- 1. The current PRC Law** on the Prevention and Control of Environmental Pollution by Solid Wastes (previously revised in 2015) prohibits the import, dumping and disposal of both solid wastes, unless subject to a specific import license, and hazardous wastes. Those solid and hazardous waste products that are currently prohibited from import and those that are subject to an import license are listed in respective catalogues published by competent departments of the PRC. The applicable licensing regime has been in effect in the PRC since 1 August 2011.
- 2. The 2020 revision:** The solid wastes that are prohibited from import, dumping and disposal in the PRC and/or are subject to import licensing are set out in catalogues of solid waste products as published and adjusted by the competent departments under the State Council of the PRC in 2017 and 2018. They are annexed to this circular as follows:

- Annex I - Catalogue of Solid Wastes Prohibited from Importation into the PRC and that cannot be imported ¹ ,
- Annex II - Catalogue of Solid Wastes that can be used as raw materials under Import Restrictions and that can be imported with an Import License of the PRC for Restricted Solid Wastes that Can be Used as Raw Materials, but will be prohibited from import from 1 January 2021 ² ,
- Annex III - Catalogue of Solid Wastes that can be used as raw materials and that are not under Import Restrictions. Such solid wastes can also be imported with a license but will be prohibited from import from 1 January 2021. The difference from the solid wastes listed in the Catalogue in Annex II is that the importer of Annex III solid wastes should obtain an Import License of the PRC for Unrestricted Solid Wastes that Can be Used as Raw Materials ³ ,
- Annex IV - Catalogue of Hazardous Wastes that are already, and will continue to be, prohibited from importation into the PRC ⁴ .

- 3. The Import Restrictions** are subject to the licensing regime that has been in effect in the PRC from 1 August 2011 in accordance with the Administrative Measures for the Import of Solid Waste. Prior to accepting a cargo of solid wastes for carriage to the PRC, carriers should require the consignor to provide (i) the relevant solid waste import license (ii) the consignee's registration certificates for the import of the solid waste (iii)

¹ http://www.gard.no/Content/30181151/AnnexI_Catalogue_of_Solid_Wastes_Prohibited_from_Importation_EN.pdf

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http://www.gard.no/Content/30181152/AnnexII_%20Catalogue_of_Solid_Wastes_under_Import_Restriction_that_can_be_Used_as_Raw_Materials_EN.pdf

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http://www.gard.no/Content/30181153/AnnexIII_Catalogue_of_Solid_Wastes_Not_under_Import_Restriction_that_can_be_Used_as_Raw_Materials_EN.pdf

⁴ http://www.gard.no/Content/30181154/AnnexIV_Catalogue_of_Hazardous_Wastes_EN.pdf



the registration certificate of any foreign suppliers of the solid waste, and (iv) the certificate of the pre-shipment inspection of the imported solid waste. This licensing regime will be in place until the end of the year when the ban on the importation of all solid wastes will become effective from 1 January 2021.

- 4. Liability on the carrier:** Previous legislation governing liability for the return and disposal of solid wastes imported by sea into the PRC imposed liability on the carrier for the return of prohibited solid wastes or the costs for disposing of the waste where the carrier was unable to identify the importer (2015 Revision, Art.78). The new Revision imposes joint and severe liabilities on both the carrier and importer for the return and disposal of the solid waste where the solid waste is prohibited and/or there is a failure to comply with licensing requirements following the Catalogue of Solid Wastes Prohibited from Importation. The new Revision also imposes significantly increased fines for violations of the law. Where a carrier transports a prohibited solid waste to be imported into or transits a hazardous waste through, the territory of the PRC, the new Revision prescribes that a fine may be imposed on the carrier and the importer under the new law of between RMB 500,000 (equivalent to approximately US\$71, 000) and RMB 5 million (equivalent to approximately US\$710, 000) (Art.115 para.1). This is in addition to an order from Customs authorities to return the solid wastes to the place of export. The new Revision does not provide that solid waste other than hazardous waste is prohibited from transit through the territory of the PRC. Where a carrier transports such solid waste for transit through the territory of PRC, it is understood that the carrier does not need to report to Customs if the solid wastes (excluding hazardous wastes) are not discharged at Chinese ports. If they are discharged in port but are in transit through the territory of the PRC, then an import license will need to be obtained.
- 5. Exercise caution & due diligence:** Owners and other interested parties trading in this region are encouraged by the IG P&I Clubs⁵ to exercise caution and remain vigilant for any activity which may fall within the scope of the PRC Law on the Prevention and Control of Environmental Pollution by Solid Wastes. Customs is expected to increase the inspections of cargo and the quarantine of the imported solid waste to enforce the new law. Owners/members are advised to conduct thorough due diligence, carefully checking a request to transport any kind of waste into China to avoid being suspected of smuggling and therefore avoid potential fines for violations of the law.

⁵ <https://www.standard-club.com/media/3336694/12-august-2020-standard-asia-circular-new-revised-people-s-republic-of-china-prc-law.pdf>