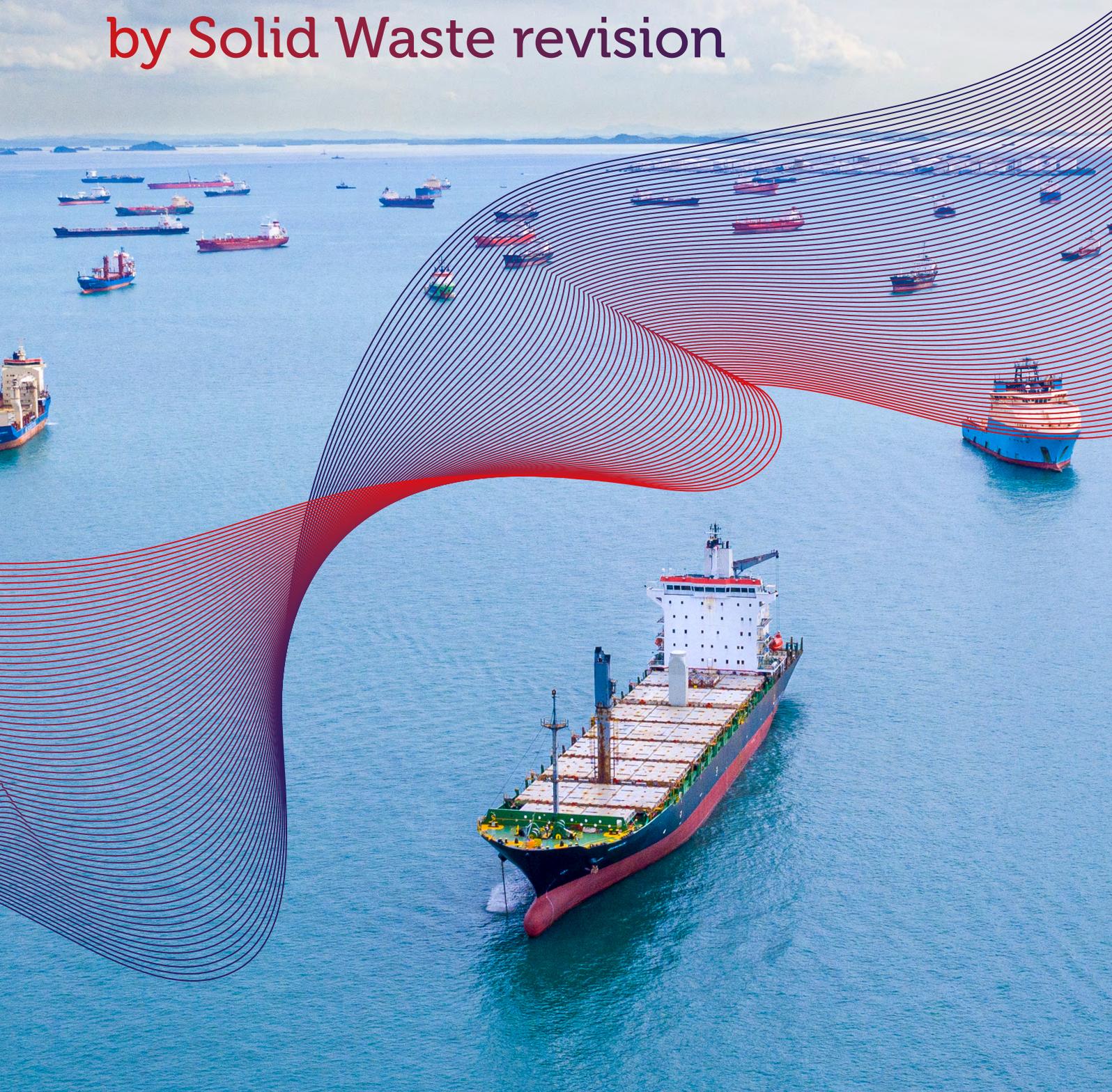


September 2020

MS  **Amlin**

China's Law on the Prevention and Control of Environmental Pollution by Solid Waste revision



As from the 1st of September 2020 the newly revised Law on the Prevention and Control of Environmental Pollution by Solid Waste will take effect, which sets out the requirements on the lawful importing and consequences of illegal importing of solid waste.

With this circular MS Amlin wishes to inform its clients about the revisions and provides recommendations for compliance. We would like to thank Henry Lee, Partner at Sloma & Co., Shanghai for his contributions.

Background

To counter the shortage of raw materials, China used to import solid waste from abroad. In recent years, however, China has begun to gradually control the import of solid waste so as to comply with the requirements resulting from the upgrade of its industrial structure and the protection of the ecological environment. Nevertheless, many enterprises still take the risk of illegally importing solid waste for processing and production. It was under such circumstances that the Law on the Prevention and Control of Environmental Pollution by Solid Waste was revised with the aim to best control and eventually prohibit the import of solid waste.

The changes

The newly revised Law on the Prevention and Control of Environmental Pollution by Solid Waste took effect on 1 September 2020. It sets out the requirements on the lawful importing of solid waste and imposes a joint and several liability on both the carrier and the importer in case of illegal importing of solid waste. In addition, the revised law has significantly increased the penalties for violations. For example, illegal imported solid waste will be ordered to be returned to its original place and a fine will be imposed which could range from RMB 500,000 up to RMB 5 million. Furthermore, a criminal charge could be pressed in some cases.

From 1 January 2021 all solid wastes will be prohibited from import into China. As a result, from this date the licensing regime for solid wastes will no longer be in place.



“The newly revised law imposes a joint and several liability on both the carrier and the importer in case of illegal importing of solid waste”

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Recommendations

Before 2021

- Carriers/shipowners should be aware of these legal and regulatory changes. Personnel and crews should be trained on the development and changes of policies and catalogues regarding solid waste; and/or hazardous waste that is under import restrictions; and/or prohibited from importing to China.
- When accepting a booking, it is necessary to be extra vigilant and cautious in the examination of the goods to be carried. If the goods are solid waste, the shipper will be required to provide the following supporting documents:
 - (a) the relevant license for the import of solid waste;
 - (b) the registration certificate of the domestic consignee for the imported solid waste to be used as raw materials;
 - (c) the registration certificate of any foreign supplier of the imported solid waste to be used as raw materials;
 - (d) the certificate of pre-shipment inspection of the imported solid waste to be used as raw materials.
- The name and address of the consignee should be stated on the documents as it is forbidden to carry solid waste into China under a TO ORDER bill of lading. In addition, we advise carriers to check that the name of the consignee is consistent with the name of the importer on the import license and registration certificate.
- When imported goods are seized by customs, immediate action should be taken by providing relevant documents as required by the local authorities, coordinating with the shipper and the consignee to handle the return of the waste, and in the meantime properly storing relevant evidence in case of possible future claims.

After 2021

We recommend that carriers/ship owners refuse the transport of any solid waste into China.

This circular has been produced in co-operation with law firm Sloma & Co., Shanghai and is meant for guidance purposes only. Should you require more information or assistance, please feel free to contact our Client Services Desk: ClientServicesDesk@msamlin.com



Fergus Kuek
Claims Executive
MS Amlin Asia Pacific Pte Ltd
Fergus.Kuek@msamlin.com

MS Amlin

Client Services Desk

Postal Address:
P.O.Box 30152, 3001 DD
Rotterdam

Visiting Address:
Beursplein 37, 3011 AA Rotterdam
The Netherlands
Tel: +31 10 799 5800

[msamlin.com/pandi](https://www.msamlin.com/pandi)