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6 MAY 2020

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INEA'S REGULATIONS FOR STS OPERATIONS IN VENEZUELAN WATERS

Administrative order No. 333 dated 27 April 2020 enacted by the National Institute of Aquatic Spaces (INEA) regulates the Ship-to-Ship transfer operations, also known as STS operations, of oil and related products in Venezuelan jurisdictional waters, including conceptual definitions and setting up the conditions, procedural steps as well as general security provisions that must be followed during the operations referred to. As required by the order, these operations can only be carried out by tanker ships over 150 GT (Art. 1). Nevertheless, the new regulations do not apply to the transfer of hydrocarbons related to fixed or floating platforms and other offshore installations, bunkering, ships engaged in search and rescue as well as prevention/cleaning up of pollution and Navy ships (Art 3).

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Back in June 2018, Venezuela state-owned oil company, Petróleos de Venezuela S.A. (PDVSA) started

operations involving crude oil delivered by ship-to-ship method, due to congestion-related closure of the main deepwater loading terminals. The congestion at the crude oil loading terminals has been mainly caused by the seizure of PDVSA's deepwater crude oil storage and loading assets in the Caribbean, this affected the loading of tankers mostly bound for their Far East customers, on the other side the port congestion also delayed the import of oil products into Venezuela. Those operations have been carried out since then at specific designated areas located both west and east sides of the country at the main oil complexes of Amuay and Jose, respectively.

As widely known within the industry the sea-borne transfers are posing great threats to tankers and the environment, and it was not clear at that time whether PDVSA was given by the authorities, permission to start the operations in areas which are ecologically sensitive. Such operations need insurance, special equipment and professional crew and masters trained to cope with any difficulties, therefore the involvement of the INEA, Venezuela's aquatic authority.

The administrative order is aimed to comply with local regulations and internationally SOLAS and MARPOL

concerning environmental protection. On the local level, sets up the functions of some key actors and personnel with responsibilities, among them the newly named Ship-to-Ship Transfer Service Provider (Proveedor de Servicios de Operaciones de Transbordo Buque a Buque) -role mainly played in Venezuela by PDVSA- which it must be registered and authorized by the INEA; the former is the organized entity to hire and control all the personnel involved in the operation, including any services for environmental emergency, if eventually required; as a matter of fact, article 15 requires that the former has a service contract with a national company dedicated to dealing with polluting events in case of oil spills. In case a national company does not exist, the regulations allow for the use of a foreign company with representation in Venezuela, informing to the INEA about the signature of the corresponding service contract.

Pursuant to article 5, the Master will be responsible for the STS operation, with the power to suspend or terminate the operation at any time, if he considers that the maneuvering poses a danger to the safety and health of the crew, as well as to the marine environment and the integrity of the ships and equipment. In any event the operations must be executed in coordination with the Harbour Master. It is important to point

out, however, that any STS operation must have the authorization of the INEA petitioned with 72 hours in advance, as prescribed by article 8 of the regulations. In order to grant the authorization, the INEA will verify that ships involved in the operation carry on board the STS operation plan, in compliance with the prescriptions of Regulation 42 of Chapter 8, MARPOL, Annex 1.

Besides, article 6 specifies that the cargo owners must guarantee that the ship involved in STS operations have civil liability insurance against oil spills and environmental pollution with an insurer of recognized economic solvency, with a minimum coverage of US\$ 1,000,000,000.00, in which case the certificate of insurance must be submitted.

Foreign flag ships engaged in STS operations within territorial waters, must have a ship agent authorized by the aquatic authority. Among the documents required by the regulations for the vessels involved, there must be a STS operation plan on board, approved by the flag State of each ship in accordance with the ISM Code; an on-board emergency plan in case of oil pollution, also approved by the flag State of the ship and submitted to INEA; the IOPP Certificate according to Annex 1 of the MARPOL 73/78 Convention, as required for oil tankers from 150 GT and to any

other class of ships from 400 GT, that make international voyages; protection plan according to the ISPS code, including the measures to be implemented during operations; and, a ballast water management plan following the procedure established by INEA for this purpose. In the light of last paragraph of article 16, the shipowners will be responsible for all costs and expenses incurred to mitigate the effects of the contamination event.

A full copy of the Administrative order No. 333 can be downloaded from the webpage of the National Institute of Aquatic Spaces (INEA) at www.inea.gob.ve, or it is also available from our company at your request.

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