



**SECRÉTARIAT D'ÉTAT
CHARGÉ DE LA MER**

*Liberté
Égalité
Fraternité*

Paris, **17 FEV. 2023**

To Master, M. SONG HANG and ISM Company
South Ocean Management Ltd
46th Floor Shimao international center,
108 Guangda Road, Taijiang District,
Fuzhou, Fujian, PR China

Port State Control Head Office (STEN3)

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Copy: <u>Flag State</u>	: Liberia	European Commission (EMSA)	Tokyo MoU
Recognized organization(s)	: NKK	Abudja MoU	Caribbean MoU
Classification Society(ies)	: NKK	Mediterranean MoU	Indian Ocean MoU
All Paris MoU members		Black Sea MoU	USCG HQ (EU)
Paris MoU Secretariat		Riyadh MoU	

DECISION N° 4117

Subject : **REFUSAL OF ACCESS ORDER - XIN FENG, IMO n° 9286920, Liberia flag**

The Secretary of State, in charge of the Sea,

Having regard to the International Convention for the Safety of Life at Sea (SOLAS), as amended ;

Having regard to the Code des transports, in particular 1° of article L. 5241-4-5 ;

Having regard to Directive 2009/16/EC of 23 april 2009 on port State control ;

Having regard to the Décret n° 84-810 du 30 août 1984 modifié, relatif à la sauvegarde de la vie humaine, à la prévention de la pollution, à la sûreté et à la certification sociale des navires, in particular article 41-9 (paragraph 1° of I) and article 41-12 ;

Having regard to the Décret n°2005-850 du 27 juillet 2005 relatif aux délégations de signature des membres du Gouvernement ;

Having regard to the Arrêté du 23 novembre 1987 modifié, relatif à la sécurité des navires et à la prévention de la pollution, in particular provisions 150-1.21 et 221-I/01 and following ;

Having regard to the notice of detention of the ship XIN FENG n° IMO 9286920 under the Liberian flag, the 6th of January ;

Having regard to the notice of release of the ship XIN FENG n° IMO 9286920 under the Liberian flag, the 10th January.

Whereas :

Considering that it was noted, during an inspection by duly authorized port state control officers of the Saint-Nazaire ship safety center on January 6, 2023, that the vessel XIN FENG n° IMO 9286920 flying the Liberian flag presented several deficiencies with regard to the provisions of the mentioned SOLAS convention and the provisions of the articles 221-1/01 of the règlement annexé à l'arrêté du 23 novembre 1987 modifié ;

Considering that the deficiencies identified pose a manifest risk to maritime safety, the port state control officers detained the ship by decision from January 6th 2023 ;

Considering that the company of XIN FENG has committed to rectify these deficiencies by sending the ship to a repair yard and provided evidences to that effect ;

Considering that, with regard to these corrective actions, the port state control officers released the ship by decision from January 10th 2023 ;

Considering nonetheless that the release was conditioned by a single voyage to a repair yard in China, after the autorisation to discharge its cargo and to load provisions in Vlissingen Netherlands ;

Considering that without any information about the ship destination and without being able to contact the captain nor the company of XIN FENG, Saint-Nazaire ship safety center's manager reminded by email from February 3rd the release conditions ;

Considering that after numerous requests from ship safety center's manager, the captain requested to call to another shipyard other than the one initially agreed, without specifying which one ;

Considering that in application of article 41-9 4° of the above mentioned décret n° 84-810, the Ministry in charge of the Sea refuses access to ports and anchorages within the national territory to any detained ship when it has been authorized to join a shipyard following a release and has sailed without joining the agreed shipyard or without respecting the port state control officers' conditions ;

Considering that the Norwegian authorities, based on satellite data, informed the ship safety center about the position of ship XIN FENG in the exclusive economic zone of Russia and then in the port of Murmansk (Russia) ;

Considering that, after several contact attempts by the Norwegian authorities, Captain of XIN FENG ship indicated that he was carrying iron ore and operated a new commercial operation in Russia territory ;

Considering that the XIN FENG vessel did not abide to the condition of the notice of release by failing to call at the repair yard in China as agreed ;

Considering that it follows from the foregoing that the ship pose a manifest risk to maritime safety and the marine environment in accordance with the article L. 5241-4-5 du the code des transports.

DECIDES

Article 1 : Access to ports and anchorages throughout the national territory is refused to the vessel XIN FENG N° IMO 9286920 by failing to call at the repair yard in China as agreed.

Article 2 : This decision takes effect after its notification. It does not apply in the event of force majeure defined at the article L. 5334-4 du code des transports.

Article 3 : The present decision can only be lifted until :

- a formal request is addressed to this Administration. The request must be accompanied by a document from the flag State administration confirming that the ship fully complies with all the provisions of the applicable international conventions. This document must be issued by the Administration and not a recognized organization acting on its behalf. In addition a document from the society classing the ship that the ship conforms to its class standards must be included, if applicable ;
- following re-inspection of the vessel to the satisfaction of this administration in a port which has been the subject of an agreement with this administration. The request of re-inspection must be addressed to the above mentioned office with a minimum notice period of fourteen days.

Article 4 : All costs related to the inspection for lifting the ban have to be borne by the company of the XIN FENG.

Article 5 : An action shall be brought by the shipowner, operator or his representative against the refusal of access within fifteen days following notification of that notice before the Ministry in charge of the Sea. Any action brought under this refusal of access shall be prior to any other action and does not suspend this decision.

Article 6 : The Secretary of State, in charge of the Sea is responsible for the execution of this decision which will be published on the website www.mer.gouv.fr.

The Secretary of State, in charge of the Sea and by
delegation ;

Marc
Léger

Signature numérique
de Marc Léger
Date : 2023.02.17
10:20:23 +01'00'

Marc LEGER

Deputy director of safety and environmental transition
shipping