

LEGAL COMMITTEE  
113th session  
Agenda item 5

LEG 113/5/1  
9 January 2026  
Original: ENGLISH  
Pre-session public release:

## ADVICE AND GUIDANCE IN CONNECTION WITH THE IMPLEMENTATION OF IMO INSTRUMENTS

### Insurer's liabilities and verification of insurance policies

Submitted by Türkiye

#### SUMMARY

*Executive summary:* Through a case study of an incident in Türkiye, this document discusses the legal basis and importance of the insurer's liabilities and the difficulties encountered in verifying insurance policies; it calls on Member States to share lists of reliable/reputable insurers, if available.

*Strategic direction,* OW

*if applicable:*

*Output:* OW 5

*Action to be taken:* Paragraph 28

*Related documents:* LEG.1/Circ.16 and LEG 112/6/1

#### Background information

1 On 23 December 2024, the vessel **Amnah** (IMO No.9126259, registered under the Comoros flag) sank with its cargo of over 200 containers at the dock within the Ambarlı Port area due to incorrect stability calculation by the crew. This incident caused significant danger to life, property, the environment and navigational safety. It also rendered the port facility, which is ranked seventy-second in the top one hundred ports in the Lloyd's List, unusable and resulted in significant delays and commercial losses.

2 Measures were taken to prevent oil pollution by sealing all fuel tank leaks using divers when the ship sank. The minor oil spill that occurred in the initial stage did not leak outside the protective barriers and was cleaned up by emergency response companies in accordance with response methods. No visible pollution remained before the ship was completely floated and towed away from its location.

3 All certificates issued by the flag State and by a recognized organization on behalf of the flag State, which were valid as of the date of the ship's arrival at the port, have been uploaded to the national maritime single window system. Among these documents, there is a Bunkers 2001 certificate issued by the Comoros flag Administration based on a P&I insurance policy, valid until 1 November 2025, issued by Los Andes de Protección de Indemnización, a company based in Chile. A screenshot confirming that this insurance policy was valid,

obtained by querying and verifying it on the website of the insurance company, has been uploaded to the national maritime single window system. No problems were found on paper regarding the ship's certification and seaworthiness until the time of the incident.

4 After the incident, the Turkish Maritime Authority tried to contact the insurance company, Los Andes de Protección de Indemnización, but no response was received in the first three days. Although the validity of the policy was verified by the Harbour Master's Office on the insurance company's website, the company denied the insurance policy. The insurer, who did not assume liability for the incident, did not pay any compensation and no damages were paid. The ship was removed from its location by the port operator using its own resources.

## **Discussion**

### ***The legal basis and importance of the obligation for ships to carry insurance***

5 The issue of insurance that ships are required to carry on board has been high on the agenda of IMO in recent years. At its 111th session, the Legal Committee approved the *Guidelines for accepting insurance certificates and insurance companies, financial security providers, and protection and indemnity clubs (P&I Clubs)* (LEG.1/Circ.16) given the increased instances where ships were sailing with inadequate or no insurance. Furthermore, the governing bodies of the IOPC Funds, at their November 2024 sessions, adopted a 1992 Fund Resolution and a Supplementary Fund Resolution (No.14 and No.6, respectively), on raising awareness of the risk of uninsured and unsafe ships.

6 The Resolutions call upon all States to take the requisite measures to ensure the effective implementation of the safety and environmental standards established under the relevant IMO conventions and instruments, and to give full effect to the applicable insurance requirements.

7 The International Convention on Civil Liability for Oil Pollution Damage, 1992 (as amended), the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001, and the Nairobi International Convention on the Removal of Wrecks, 2007, require ships to carry Convention insurance certificates issued by the ship's flag State or another State Party to the relevant Convention, confirming compliance with the necessary financial security provisions.

8 These Conventions establish the obligation for ships to maintain adequate insurance cover and to carry on board a Convention certificate of insurance, issued and duly signed by the flag State or by another State Party authorized to issue such certificates. The certificate serves as confirmation that the insurance is underpinned by reliable financial security, thereby ensuring the availability of compensation for potential damages.

9 Accordingly, the requirements for maritime insurance are an integral component of the international framework for safety and marine environmental protection. Compliance with statutory obligations, including the maintenance of appropriate insurance, is a fundamental condition for flag States when authorizing ships flying their flag to engage in the carriage of cargoes, including hazardous or polluting substances. Failure to meet these obligations not only constitutes non-compliance with applicable regulations but also undermines the functioning of the system as a whole, thereby threatening the balance upon which it is based.

### ***Flag States and port States' responsibilities***

10 The flag State bears the primary responsibility for ensuring that ships entitled to fly its flag comply with the applicable international conventions, including those provisions relating to insurance or other financial security. As the issuing authority for statutory certificates, the flag State has to ascertain that valid insurance cover is in place, meeting the requirements set out in the relevant instruments, prior to authorizing a ship to operate.

11 Under current IMO regulations, flag States are responsible for verifying that insurers issuing Blue Cards meet adequate solvency and transparency standards.

12 Flag States provide vessels with their legal nationality and are responsible for ensuring compliance with safety, environmental and insurance standards, under the relevant international conventions. Thus, flag States have to exercise jurisdiction and control over ships flying their flag, but it is observed that these obligations remain largely unenforced by some flag administrations.

13 In exercising this responsibility, flag States are expected to establish effective mechanisms to verify the authenticity, validity and continuity of the insurance cover carried by ships under their jurisdiction. This includes the obligation to cancel or withdraw certificates should the insurance or financial security be terminated or lapse, in accordance with the provisions of the respective conventions.

14 Although flag States are responsible for verifying the validity of liability insurance under IMO guidelines, many registries lack the technical capacity or willingness to evaluate the adequacy of insurance providers. They impose few entry requirements, lack rigorous inspection regimes and rarely scrutinize the insurance coverage or ownership structures of the vessels they flag.

15 Due to the international nature of maritime trade, not only the flag State but also the coastal States and port States in whose waters the vessel is located are exposed to the risk posed by uninsured or inadequately insured vessels.

### ***Verification of insurance policies***

16 Verification of the validity of a ship's insurance is a fundamental requirement under the liability and compensation regime established by the relevant IMO conventions. It ensures that ships maintain continuous and adequate financial security, thereby providing assurance that compensation will be available to cover potential claims arising from pollution damage, wreck removal, or passenger injury.

17 The ability of flag States, port States and other competent authorities to confirm the authenticity and validity of insurance certificates safeguards the integrity of the international system. Without such verification, there is a risk that fraudulent, expired, or otherwise inadequate cover may go undetected, undermining the protection afforded to victims and coastal States.

18 Timely verification also prevents gaps in coverage, which could otherwise result in insufficient compensation and expose international compensation funds to additional financial burdens. Robust verification procedures therefore strengthen the overall credibility and effectiveness of the compensation framework.

19 In this regard, ensuring that insurance certificates are genuine, current and supported by reliable financial security is not a mere administrative formality, but a central element of the liability regime. It underpins the principle of prompt and adequate compensation, reinforces trust among States Parties and contributes to the maintenance of a fair and balanced international maritime system.

## Conclusion

20 A ship continuing its international voyage without insurance or with inadequate insurance coverage poses a risk not only in the waters of the country where it is located but also at its next ports of call. This demonstrates that the problem can only be solved through international understanding and cooperation with the contribution of all States.

21 Türkiye, as a flag State, within the scope of flag State practices, requires that the certificates, such as those for the CLC or Bunkers Convention, for Turkish-flagged vessels that are obliged to have insurance, must be from the list of reputable P&I organizations declared by the Administration. While preparing this list, the relevant IMO guidance "Guidelines for accepting insurance certificates and insurance companies, financial security providers, and protection and indemnity clubs" (LEG.1/Circ.16) has been taken into consideration.

22 However, there are some difficulties in controlling the insurance of foreign-flagged ships submitted from any insurer that is not a member of the International Group of P&I Clubs (International Group) and which is not even known. Therefore, it is concluded that a separate insurance regulation should be introduced for foreign-flagged vessels calling at Turkish ports. In this regard, we expect each insurer who wants to register in the national single window system to apply to the Maritime Administration showing that they meet the listed criteria, including the appointment of a local correspondent, online verification, reinsurance agreements, international rating credit note, etc. Although this is a local solution, Türkiye has been questioning the existence and adequacy of insurance policies offered by ships arriving at its ports, placing importance on the financial strength and compensation payment capacity of insurance companies.

23 Maritime insurance policies are significantly shaped by international regulatory frameworks designed to ensure safety, environmental protection and standardized operations in the global shipping industry. The laws of the flag State (i.e. the country where the ship is registered) also play a critical role in shaping shipping insurance policies. Indeed, each flag State has its own regulations governing ship safety, environmental standards and crew welfare, and these can vary considerably.

24 Authorities that control marine insurance policies should have sufficient knowledge and experience to confirm whether the policy limits and coverage amounts fall within the scope of the relevant convention.

25 Türkiye has submitted document IOPC/NOV25/4/5, regarding the legal basis and importance of the insurer's liabilities and the difficulties encountered in verifying insurance policies during the November sessions of the IOPC Funds' governing bodies, held from 4 to 7 November 2025. The governing bodies noted that there were calls for greater transparency in the vetting of insurers, but that most delegations had expressed a preference for matters to be discussed at the IMO Legal Committee, whether in the context of the regulatory scoping exercise or under another agenda item.

26 At the 112th session of the Legal Committee, IMO Member States agreed there is a growing problem with substandard shipping and unlawful operations in international maritime trade. However, these operations often involve ships that do not meet international safety, environmental or crewing standards. To address this, the Legal Committee, at its last session, approved a new output on a Regulatory Scoping Exercise specifically focusing on substandard shipping and related unlawful operations. However, the issue of non-compliance with the insurance obligations set forth in this document may need to be addressed separately, as it may also arise in ships that are not substandard but in relatively good condition.

### **Proposals**

27 In light of the above, Türkiye proposes that the Committee:

- .1 take note of the information contained in this document;
- .2 encourage Member States to take into account the relevant IMO guidance (Circular Letter No.3464 revised by LEG.1/Circ.16) when regulating insurance companies;
- .3 consider whether Member States should be encouraged to share their lists of reputable/respectable insurers in their own waters, if any; and
- .4 if it is decided that these lists should be shared, invite the Secretariat to indicate whether an appropriate section on GISIS can be created for this purpose.

### **Action requested of the Committee**

28 The Committee is invited to take note of the information contained in this document, consider the comments above, especially the proposals in paragraph 27, and take action as appropriate.

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