

TLLC

Cross-Border Questionnaire

4th edition, 2025

Casualties, Investigations and Liabilities

Dear TLLC Members,

After the successful earlier editions of the questionnaire, with over 20 jurisdictions covering the topics of “Arrest of Vessels”, “Liabilities in Contracts of Carriage” and “Maritime Arbitration”, we are happy to launch the 4th edition of the TLLC Cross-Border Questionnaire.

This Questionnaire aims to bring a comparative analysis from different jurisdictions with diverse legal backgrounds on topics that are relevant for the global transportation industry.

After an online poll among the TLLC members, the topic selected by majority of votes for this edition of the questionnaire is “Casualties, Investigations and Liabilities”.

We are happy to hear about multiple jurisdictions and encourage you to share your contributions to the questionnaire by December 15, 2025. We expect to publish the questionnaire in early 2026 and subsequently organize our traditional webinar on the topic.

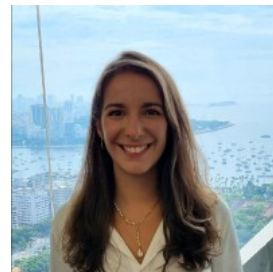
Responses to the Questionnaire, as well as suggestions of topics and improvements for future editions may be sent to [the editors below](#).

Cheers!

Editors of the TLLC Cross-Border Questionnaire



Frederico Mendes Vianna F. Cardoso
Kincaid – Brazil
Frederico.Cardoso@Kincaid.com.br



Camilla Queiroz Werneck
Castro Barros Advogados – Brazil
Camilla.Werneck@castrobarros.com.br



Nick Vangeneugden
Ponet & LVP Advocaten – Belgium
Nick.Vangeneugden@ponet-law.be



Evan Spencer
Blank Rome LLP – U.S.A.
Evan.Spencer@blankrome.com

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4th edition – 2025

CASUALTIES, INVESTIGATIONS AND LIABILITIES

Name of the contributor: Joachim Sieverts Nielsen

Firm of the contributor: Loeven Advokatpartnerselskab

Country: Denmark

1. What's the first thing you do when the shipowner/Club calls in case of a marine casualty?

Run a conflict check. Register the client in our systems.

Then more or less simultaneously, start planning for points 1 and 2 in question 2 below as soon as possible, and at the same time gathering as much information as possible regarding the casualty.

If it has not already been done by the client, assist the client with contacting the Danish Maritime Authority regarding the incident, as well as notifying the Danish Maritime Accident Investigation Board. Both are legal requirements in Denmark.

2. What are the immediate concerns and how do you protect your clients' interests?

There are several things to be aware of. Two specific processes are most pressing, which are set out below:

1. Arresting the counterparty's vessel as security for damages.
 - a. Submission of a request for arrest to the Bailiff's court
 - b. Coordinating a time for arrest with the Bailiff
 - c. After the arrest: In Denmark there is a deadline of 7 days to file a claim form for at "justification" suit regarding the lawfulness of the arrest.
 - d. After the arrest: negotiating securities for release of the client vessel and the counterparty vessel
2. Statements from the client vessel's crew involved as soon as possible, so that the details regarding the event are still clearly remembered.

The prioritization between these two points depends on the exact circumstances. An example could be in the case where we receive knowledge that a counterparty vessel is planning on leaving the jurisdiction – in such a case, it becomes quite time-sensitive to arrest the counterparty vessel.

In Denmark, we have the option of conducting witness hearings of the crew and other involved persons in court (called a "Maritime Inquiry"), immediately after the fact. This is a sort of "deposition", meaning that the witness testimony can be taken and recorded shortly after the incident occurred, even though the court case regarding damages itself only takes place later.

It is rather seldom that this option is used – most often the parties will simply record statements from the crew internally, and then at a subsequent hearing, these statements can be referred to as evidence themselves (although the evidentiary value is at the discretion of the court), and/or as reference for the memory of the crew on specific points during witness testimonies.

Following the above, we would then assist with contacting surveyors, shipyards etc., so that the damage can be ascertained and subsequently repaired so that the vessel becomes operational again as soon as possible.

3. Which parties may be involved, i.e., private entities and public authorities?

Depending on the exact type of incident, the following parties may be involved.

1. Owners (both vessels)/Charterers
2. Insurers: P&I / H&M (both vessels)
3. Local public authorities
 - a. Criminal investigation
 - b. Danish Maritime Accident Investigation Board (DMAIB), which is an independent unit under the Ministry of Industry, Business and Financial Affairs.
 - c. Danish Maritime Authority (detaining and releasing the vessel, approving salvage plans etc.)
4. Class (both vessels)

4. How are Investigations conducted in your jurisdiction? How can the parties/lawyers handle investigations?

In some instances, the authorities decide to involve themselves (which would be the case if there was i.e. evidence of criminal actions, pollution, serious bodily harm or death, etc.). In other cases, it is a civil case with civil damages claim between the parties involved. Here the DMAIB will investigate but this is purely from a standpoint of preventing similar instances in the future, rather than placing blame regarding the incident at hand.

In other instances, the DMAIB will agree with e.g. the flag state that the flag state will conduct the investigation.

5. Could such an event lead to administrative penalties, civil liability, and/or criminal liability? If so, what kind of sanctions or penalties may be imposed and under what timeframe?

Depending on the situation, all of the above.

1. Administrative penalties
 - a. Pollution clean-up costs and fees
2. Civil liability
 - a. Damages to the other vessel or other involved parties
3. Criminal liability
 - a. Fines (on the owners or on the individual depending on the action)
 - b. Prison time if the offence is serious

6. Can the state or local authority order wreck removal?

Yes. Pursuant to the Danish Merchant Shipping Act, Section 166, the registered owner of a vessel is strictly liable for costs related to locating and removing a wreck in Danish territorial waters or Danish EEZ. Pursuant to the same provision, owners of a Danish flagged vessel are responsible for removing a wreck, if it is located in a Convention area outside Danish territorial waters and EEZ, and the relevant Convention state has deemed that the vessel/wreck is "a danger".

The Danish Merchant Shipping act also includes an obligation to be insured against such an occurrence, which means that the risk of such costs remaining uncovered in case of bankruptcy etc., are minimized.

7. What are the basic liabilities and nature of the potential judicial claims that could arise?

The most likely liabilities are:

1. Civil claims for damages (collision damage to the counterparty vessel, cargo damage claims from own cargo interests and counterparty cargo interests)
2. Criminal fines
3. Administrative fines
4. Administrative claims for pollution cleanup costs

8. Is there a risk of civil public actions for pollution or for damages to fishing or tourism industries?

Yes.

Under Danish law, the owner of a ship, oil platform or other movable objects has strict liability for damage or loss arising from oil flowing from the ship/platform/object.

The exact regulation and extent of liability is very specific per type of oil, and whether the oil was being transported in bulk.

If they can fulfil the normal requirements of tort (documentation of a loss, causal link, liability) actors within the tourism and fishing industries can raise a claim in tort. This is not seen very often in Denmark.

9. Is there a risk of arrest of the vessel, security or other injunctions against the parties involved?

Yes, this is very likely.

The standard process is for example in the case of a collision, that the two vessels arrest each other, and then negotiate securities against which the vessels can be released again. Cargo interests will usually arrest the vessel in case of grounding.

In this situation, the cargo interests will also arrest the counterparty vessel.

Furthermore, arresting a vessel is also possible under other circumstances, such as where a third party has a claim against owners/charterers which has not been paid.

10. What are some basic defences available to carriers involved in a maritime casualty in your jurisdiction?

Error in navigation, Fire, Package and kg limitation, Limitation under the 1996 protocol (all vessels), the colliding vessel is only liability in proportion to its fault in causing the collision.

11. How are penalties and/or indemnities quantified and assessed?

Indemnity for damage to goods and vessels are assessed in line with principles for tort law or under the contract of carriage.

Penalties from authorities are assessed in accordance with the relevant statutes, executive orders and guidelines in question as well as court practice.

12. Are there any limitation regimes available in your country?

Yes, see below in the answer to question 13. Most notably, there is the limitation of liability for maritime claims, and the limitation as follows from Hague Visby rules (implemented into national legislation) regarding cargo claims.

13. Which international conventions are in force in your jurisdiction that could be applicable? (Salvage, Wreck Removal, SOLAS, Limitation, etc.?)

- International Convention relating to the arrest of seagoing ships of 1952
- The Collision Convention of 1910
- Nairobi International Convention on the Removal of Wrecks of 2007
- Convention on Limitation of Liability for Maritime Claims of 1976 (including the protocol of 1996)
- International Convention for the Prevention of Pollution from Ships (MARPOL 1973)
- International Convention on Civil Liability for Bunker Oil Pollution Damage of 2001
- Protocol to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND 1992)
- International Convention on Civil Liability for Oil Pollution Damage (CLC 1969)
- The Hazardous and Noxious Substances Convention (HNS 2010)
- Hague-Visby rules of 1968 (plus the SDR Protocol of 1979)
- The Nordic countries (Denmark, Norway, Sweden, and Finland) have promulgated a common Merchant Shipping Act, which is to a rather large extent based on the Hamburg Rules, however, not to an extent that it was necessary for Denmark to step out of the Hague-Visby rules.
- Rotterdam rules, which is relevant to keep in mind, if/when they enter into force.
- Athens Convention relating to the carriage of passengers and their luggage by sea of 1974.
- Regulation (EU) No 1177/2010 Concerning the Rights of Passengers When Travelling by Sea and Inland Waterway
- International Convention on Salvage of 1989
- Convention on Safety of Lives at Sea (SOLAS 1960 and 1974)
- The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships (2009)
- (York Antwerp Rules of 1994 (on General Average), not strictly a convention, but incorporated into the Merchant Shipping Act.)

14. Any relevant domestic laws that could apply when it comes to mitigating the damages; measures to be adopted and claims for the losses suffered?

Danish Merchant Shipping Act, which incorporates most of the above-mentioned conventions, to which Denmark is a party. The others are incorporated by following acts.

The Danish Merchant Shipping Act regulates the liability (and potential limitation of same), as well as obligations to clean up after a pollution event has occurred.

“Sø sikkerhedsloven” (Act on Safety at Sea) regarding the safety of ships, to ensure that the construction and maintenance of ships are to a high safety standard, and that the seamen and -women are educated to a high standard. The Act is focused on the areas of the SOLAS and MARPOL conventions.

Havmiljøloven (Maritime Environmental Protection Act) regarding preventing and limiting the consequences of actions from activities that can endanger the health and safety of people, endanger natural and cultural items of value, prevent the legal use of the sea or reduce recreative values or activities.

15. Any other relevant information, news, a practical case or decision regarding the topic you would like to share?

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NEWS ABOUT THE COMMISSION

Although guided by a dedicated team of Officers, the TLLC encourages the participation of all members in planning the activities of our commission.

If you have any suggestion, ideas or do not know exactly how you can contribute but definitely want to be engaged, feel free to get in touch with any of the commission officers or the TLLC Communication Team at tlcnews.aija@gmail.com

TLLC LINKEDIN GROUP

Stay tuned for the activities of the TLLC Commission group on LinkedIn [[TLLC LinkedIn page](#)], where you will be able to receive information and posts that are not exactly newsletter material, in addition to exchanging information with other members, following the commission's plans, initiatives, events and speaking opportunities.

Want to contribute?

Our members are always welcome to send contributions and suggestions to the activities performed by the Commission. If you have ideas or questions you would like to share, please feel free to reach any of the Officers or the Communication Team through the email below:

tlcnews.aija@gmail.com