

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!

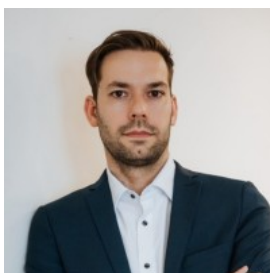
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TLLC Cross-border Questionnaire

4th edition – 2025

CASUALTIES, INVESTIGATIONS AND LIABILITIES

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

While this will, of course, depend on the type of casualty, the initial steps will usually be to set up an active response team, which would include people within the law firm, external marine surveyors, and the relevant persons with the shipowner/Club.

While the shipowner/Club sometimes have their own preference in the choice of marine surveyor, it is more common that we provide our suggestions in this regard for shipowner/Club's approval.

Internally at our lawfirm, we have a base team that has dealt with marine casualties before and who knows the handling of the type of cases.

The team set up for the specific casualty will often consist of a front-end person or multiple front-end persons handling the urgent flow of information and various operational issues (such as arrangement of surveys, meetings with the client etc.) and a back-end person or back-end persons, who ensures that basic information about the casualty, the parties, the relevant contractual arrangements etc. is obtained. The back-end person or persons will usually also make freedom of information requests to all relevant public authorities (such as traffic control and the maritime authority) in order to obtain as much information about the incident as early as possible.

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

First and foremost, it must be resolved whether the matter concerns an ongoing incident (for instance a vessel that has run aground and is currently leaking oil etc.) or if the matter concerns a past incident where there is no immediate danger of life, environment or property (for instance a collision where the vessel has maintained structural integrity and is being tugged to the nearest port).

It is our general impression, that Clubs handle ongoing incidents exceedingly well on their own and that our immediate assistance is often contained to very specific advice on the interpretation of Danish legislation, while the Clubs are already well versed in the initial handling of the casualty, including the procurement of assistance for the vessel.

In general, some of the immediate concerns will be the securing of evidence, including statements from the crew. Obtaining precise and contemporary statements will be important in a later litigation, but the process of interviewing the crew and attending the vessel will often also provide valuable background information for us as lawyers which will assist in our advice to the shipowner/Club. This includes the general state of the vessel, the dynamic between the crewmembers and the relationship between the crew

and the Master (and other officers), which may all be factors that can give part of the explanation of how the casualty could arise.

In the more medium term, we also advise clients on questions on jurisdiction, limitations of liability, procedural rules etc., which will be beneficial for the client in their overall assessment of the case and their assessment on the most favourable jurisdiction for the dispute to be heard.

If there are regulatory implications of the casualty, these will naturally also be addressed as soon as possible. However, it is our general impression that the Clubs or their correspondents are already well versed within this field.

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

Depending on the type and circumstances surrounding the casualty, the following parties will often be involved in a casualty (apart from the parties to the actual casualty):

- the Danish Maritime Authority (in charge of most regulatory questions)
- the Danish Navy (in charge of pollution response etc.)
- the Danish Defence (in charge of Vessel Traffic Services)
- the Danish Maritime Accident Investigation Board (DMAIB) will often be involved.

Salvors, pilots and surveyors also form a natural part of the casualty response.

Where criminal actions are suspected to be the cause of the incident, the police may also be involved.

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

Though there is no legal standard or mandatory setup for casualty investigations in Denmark, shipowners and Clubs often prefer to comprise an investigation team consisting of a surveyor and a lawyer, with the surveyor conducting the technical side of the investigation and the lawyer handling the legal side of the casualty investigation.

The Danish Maritime Accident Investigation Board (DMAIB) will often conduct their own investigation of the casualty and eventually issue a report on casualty (typically within a year of the incident). However, the ability under Danish law to gain insight in the DMAIB investigation and access to documents used for the purpose of the DMAIB investigation is significantly limited, shipowner and Clubs will usually conduct their own investigations notwithstanding a parallel investigation from the DMAIB.

Freedom of information requests also constitute a valuable tool in the be first phase of the casualty, as many government entities will have information about the casualty including VHF recordings, vessel traffic control trackings etc.

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?

Maritime casualties often lead to substantial civil liability, administrative financial obligations, and criminal fines for regulatory breaches.

While it is difficult to encapsule all potential consequences of a maritime casualty, the following is meant to provide a (very) brief overview:

Civil liability

Civil liability primarily takes the form of an obligation to pay damages (indemnity) to compensate proven losses. As regards limitation periods, collision claims must be commenced within two years from the date the damage occurred (Section 501 of the Danish Merchant Shipping Act).

Passenger claims for personal injury or death must be commenced within two years from the date of disembarkation (or the date when disembarkation should have taken place), subject to an absolute time bar of three years from the date of death or five years from disembarkation.

Finally, claims for general average contributions must be commenced within one year from the date of the general average adjustment.

Administrative penalties

Administrative measures and sanctions may include cost recovery and detention. The shipowner may be required to reimburse public authorities for the costs of cleanup and other reasonable measures taken to prevent pollution, and the authorities may add administrative surcharges to cover fees or overheads in addition to the direct costs. The authorities may also detain the vessel—or a sister ship—until adequate security for these amounts is provided (Section 47 f of the Danish Marine Environment Act).

Detention may be imposed immediately following the incident, whereas cost recovery will generally be subject to the statutory limitation periods applicable to pollution claims, typically three years from the date the damage occurred.

Criminal liability

Under the Danish International Ship Register Act (the DIS Act), fines may be imposed for failing to report that a ship has been lost or wrecked, or for failing to notify the authorities of changes to chartering arrangements.

Fines may be imposed on the shipowner, the charterer, or the company itself for regulatory breaches.

Such fines are triggered if the reporting obligation is not fulfilled within the statutory deadline – specifically, seven days for certain registration updates (Section 11 d of the DIS Act).

In addition, the individual crew member may incur criminal liability as a result of a maritime casualty. For example, a crew member who causes a collision resulting in a person's death while under the influence of alcohol may be prosecuted for manslaughter.

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

Under the Danish Coastal Protection Act, the Minister for the Environment or a municipal council may issue an order requiring the owner of a wreck to remove it if the wreck is deemed capable of posing a danger to the coast or to a coastal protection structure. If the order is not complied with, the Minister or the municipal council may arrange for the wreck to be removed at the owner's expense where this is necessary to avert an imminent danger. If immediate action is required, the Minister or the municipal council may arrange for the wreck to be removed at the owner's expense without first issuing an order to the owner.

Under the Danish Marine Environment Act, the authorities may detain a wreck if there is a risk of pollution or if adequate security for cleanup costs has not been provided.

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

Basic bases of liability

Judicial claims in Danish maritime law generally arise from two distinct bases of liability, depending on the type of casualty: fault-based liability and strict liability.

Under fault-based liability, the general rule is that, for most maritime casualties—including collisions and damage to fixed infrastructure—liability is based on fault (negligence). The shipowner is liable not only for their own acts or omissions but also vicariously for faults committed by the master, crew, pilot, or others in the service of the ship (section 151 of the Danish Merchant Shipping Act). In collision cases between ships, where both vessels are at fault, liability is apportioned according to each vessel's degree of fault; if the degree of fault cannot be determined, liability is typically divided equally (50/50) (section 161 of the Danish Merchant Shipping Act).

Under strict liability, the shipowner bears liability without fault for certain categories of damage. This includes oil pollution damage, both in respect of persistent oil from tankers (section 191 of the Danish Merchant Shipping Act) and bunker oil from other ships (section 210 of the Danish Merchant Shipping Act). The carrier may also be strictly liable for passenger death or personal injury caused by a “shipping incident” (such as shipwreck, collision, fire or explosion), up to the applicable statutory limit. In addition, liability for the costs of locating, marking and removing a wreck is often imposed on a strict liability basis under the Danish Marine Environment Act.

Nature of potential judicial claims

Claims arising out of maritime casualties typically fall within the following categories:

- **Physical property damage:** claims for repair costs or total loss value of vessels; damage to fixed infrastructure (for example bridges, quays, harbour facilities or subsea cables); and cargo claims for loss of or damage to goods carried on board.
- **Economic and consequential loss:** claims for loss of earnings while a commercial vessel is out of service for repairs (loss of time); loss of use suffered by infrastructure owners; and, more exceptionally, claims for loss of income where it is a direct and foreseeable consequence of pollution contamination (pure economic loss is generally treated restrictively).
- **Public and administrative claims:** claims by public authorities (including the Defence Command and municipalities) for the costs of preventive measures to prevent or minimise pollution (section 191 of the Danish Merchant Shipping Act), cleanup costs (including the deployment of vessels, aircraft and personnel), and administrative fees/overheads associated with the response operation.
- **Personal injury and death:** passenger claims for injury, death, and loss of luggage; and, in some cases, crew claims (although these are often addressed through specific workers' compensation schemes, they may also arise as damages claims against the owner in cases of negligence).
- **Recourse claims:** where there is mutual fault, a shipowner who has paid full compensation to a third party (for example a cargo owner or an injured passenger on another ship) may seek recourse from the other shipowner in proportion to that ship's degree of fault.
- **General average:** where the casualty involves a voluntary sacrifice or extraordinary expenditure to save ship and cargo from a common peril, the shipowner may pursue contributions from cargo interests by way of general average.

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

In Denmark, public authorities are very proactive in seeking compensation for costs related to maritime casualties and pollution. The legal basis is found in section 191 of the Danish Merchant Shipping Act, read in conjunction with the Marine Environment Act. The primary claimants are the Defence Command, the Environmental Protection Agency and local municipalities. Public authorities are generally entitled to compensation for the direct costs of personnel and equipment but may add a percentage to cover overheads and administration, which can make public claims significantly higher than mere “out-of-pocket” expenses.

The fishing industry is particularly vulnerable to maritime casualties involving oil spills or cargo loss. Under section 191, “pollution damage” includes loss or damage caused by contamination outside the ship. Claims often arise in relation to oil-contaminated fishing gear (trawls and nets) and are quantified by reference to repair or replacement costs. If a fishing area is closed by the authorities due to pollution, or if fish in the area are contaminated (tainted), fishermen may claim for loss of income. However, the claimant must prove a clear causal link between the discharge from the specific vessel and the damage, as purely economic losses without a link to contamination or physical damage are generally more difficult to recover under general principles of Danish tort law.

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

Arrest is the primary legal tool in Danish maritime law for securing a claim before a final judgment is rendered. Denmark generally adheres to the 1952 Arrest Convention, with the qualification that only owner claims (as opposed to charterer claims) may form the basis for the arrest of a vessel. Where the arrest of property other than a vessel is sought, the applicant must demonstrate a risk of dissipation; this is not a requirement for the arrest of vessels. Certain casualty-related claims also give rise to a maritime lien under section 51 of the Danish Merchant Shipping Act, including claims for salvage, wreck removal, and compensation for collision damage.

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

Although not a defence as such, the ability to limit liability under the 1976 LLMC Convention, as amended by the 1996 Protocol, offers significant protection. The limitation amounts are calculated by reference to the ship’s gross tonnage.

Limitation amounts (LLMC)

Personal injury/death claims (the ship’s own passengers):

- Ships up to 2,000 tons: 3.02 million SDR
- For each ton from 2,001 to 30,000: + 1,208 SDR per ton
- For each ton from 30,001 to 70,000: + 906 SDR per ton

Property claims:

- Ships up to 2,000 tons: 1.51 million SDR
- For each ton from 2,001 to 30,000: + 604 SDR per ton
- For each ton from 30,001 to 70,000: + 453 SDR per ton

Under section 174 of the Danish Merchant Shipping Act, the right to limit liability is lost only if the claimant proves that the owner personally acted with intent to cause damage or acted recklessly and with knowledge that such damage would probably result. As the burden of proof rests with the claimant and the threshold (“recklessly and with knowledge”) is very high, limitation has not been broken in practice.

Defences in oil pollution cases (strict liability)

For oil pollution claims—where liability is otherwise strict (objective)—section 191 of the Danish Merchant Shipping Act sets out three specific, force majeure-type defences. First, the owner is not liable if the damage resulted from an act of war, hostilities, civil war, insurrection, or a natural phenomenon of an exceptional, inevitable and irresistible character. Secondly, an exemption applies if the damage was wholly caused by an act or omission of a third party committed with intent to cause damage. Thirdly, a defence applies where the damage was caused by negligence or other wrongful act of any government or authority responsible for the maintenance of lights or other navigational aids.

Collision cases

In collision cases, the primary defence under the Danish Merchant Shipping Act is the absence of fault. If the collision occurred despite both ships exercising due diligence (for example due to sudden, unpredictable weather or a mechanical failure that could not have been prevented), no liability is imposed. In practice, however, this rule has limited relevance, as some degree of fault is almost always found.

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

Indemnities are primarily assessed in accordance with general principles of Danish tort law, provided the claim is substantiated and the loss is a direct consequence of the casualty. The aim is to place the claimant in the financial position they would have been in had the casualty not occurred.

In practice, property damage is quantified by reference to the cost of repairs required to restore the damaged vessel or object to its previous condition; where the vessel is a total loss, the indemnity is typically the market value at the time of the loss. Economic loss (or “loss of time”) is quantified by calculating the net loss of earnings for the period during which the vessel is out of service for repairs.

In relation to oil pollution, and pursuant to the Danish Marine Environment Act and the Danish Merchant Shipping Act, compensation to public authorities may include direct costs for personnel and equipment, administrative surcharges, and the costs of “reasonable” preventive measures taken to minimise further damage.

Penalties in the form of fines for regulatory breaches may be imposed for failures to comply with administrative duties, such as failing to report the loss or wrecking of a vessel. The Danish courts assess the amount of a fine by reference to the gravity and duration of the breach. Where the offender is a legal entity, the fine is set to ensure that it is effective and dissuasive, often taking the company’s financial capacity and turnover into account.

The final quantified amount of any indemnity is subject to interest under section 503 of the Danish Merchant Shipping Act. Interest is typically calculated from the date the damage occurred or the date the claim was formally asserted, which can significantly increase the total amount payable in long-running maritime disputes.

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

Denmark adheres to the 1976 LLMC, as amended by the 1996 Protocol. In respect of oil pollution, Denmark is a party to the 1992 International Convention on Civil Liability for Oil Pollution Damage, as well as the 1992 and 2003 Protocols to the International Oil Pollution Compensation (IOPC) Fund. In respect of bunker oil, Denmark is a party to the International Convention on Civil Liability for Bunker Oil Pollution Damage (2001).

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

Denmark is a party to a number of international conventions relevant to marine casualties.

The list below is meant to cover those conventions which are not expressly mentioned above, such as the LLMC and the 1952 Arrest Convention.

Regarding wreck removal, Denmark has acceded to the Nairobi International Convention on the Removal of Wrecks (the Wreck Removal Convention), which has been implemented in Danish law through Chapter 8a of the Danish Merchant Shipping Act.

In respect of salvage, Denmark is a party to the 1989 International Convention on Salvage, which has been incorporated in Chapter 16 of the Danish Merchant Shipping Act.

As for pollution, Denmark is a party to the following international conventions:

- the 2010 Protocol to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea
- the 2009 Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships
- the 2004 International Convention for the Control and Management of Ships' Ballast Water and Sediments
- the 2003 Protocol to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage
- the 2001 International Convention on Civil Liability for Bunker Oil Pollution Damage
- the 2001 International Convention on the Control of Harmful Anti-fouling Systems on Ships
- the 2000 Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances
- the 1997 Protocol to amend the International Convention on Prevention of Pollution of Ships
- the 1996 International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea
- the 1992 Convention on the Protection of the Marine Environment of the Baltic Sea Area
- the 1992 International Convention on the Establishment of an International Fund for Compensation of Oil Pollution Damage
- the 1992 Protocol to the International Convention on Civil Liability for Oil Pollution Damage
- the 1990 International Convention on Oil Pollution Preparedness, Response and Co-operation
- the 1972 International Convention on Prevention of Pollution of Ships
- the 1978 Protocol relating to the International Convention on Prevention of Pollution of Ships
- the 1972 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (LC), and the 1996 London Protocol
- the 1969 International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties

Finally, Denmark adheres to the SOLAS Convention, which has been incorporated in Danish law in the Executive Order no. 1582 of 02/12/2025 on the Construction and Equipment of Ships.

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?
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Danish law operates with a general obligation to use reasonable efforts to mitigate damages and to minimise the consequences of a casualty. In practice, we often see the argument raised that sufficient efforts

to mitigate damages were not made. However, except in situations where obvious steps to mitigate damages have been missed, the courts are hesitant to make any deductions from the claim amount on that basis.

15. Any other relevant information, news, a practical case or decision regarding the topic you would like to share?
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The Danish Maritime and Commercial High Court has recently delivered a judgment on the limitation of liability for a shipowner following a major subsea cable damage incident. The decision (*U.2025.4362 S*, delivered on 4 July 2025) is a key precedent confirming the 'virtually unbreakable' nature of the global limitation regime in Denmark, particularly in the light of the high evidential threshold required to attribute operational negligence to the shipowner's senior management.

Facts of the case: In February 2022, a tanker severed a subsea power transmission cable between Sweden and the Danish island of Bornholm, causing a power blackout. The incident occurred because the vessel's port anchor unintentionally broke loose from its lashings during heavy weather and dragged along the seabed.

Following the release of the anchor, the vessel experienced a sudden loss of speed. The captain and crew, believing the issue to be mechanical, focused almost entirely on troubleshooting the main engine and failed to investigate external, nautically relevant causes, such as inspecting the deck to determine if the anchor had been lost. The vessel continued its voyage once speed was regained, unaware that the anchor was dragging, until the cable was damaged.

The legal dispute: The shipowner established a limitation fund. The cable owner (Energinet) challenged the shipowner's right to limit liability, arguing that the company's conduct, including that of its shore-based management (in particular a Technical Superintendent) amounted to gross negligence or recklessness with knowledge that damage would probably result, which should bar limitation under the Danish Merchant Shipping Act section 174.

The Court's decision: The Maritime and Commercial High Court ruled in favour of the shipowner, upholding their right to limit liability. The Court's key findings were:

- The Court reaffirmed that breaking the right to limit liability requires the "personal act or omission" of the shipowner (senior management), committed with intent or "recklessly and with knowledge that such loss would probably result".
- The Court found that while the captain's failure to investigate the cause of the loss of speed was highly criticisable and constituted significant negligence, this was an individual nautical error by the master. While the majority found that the negligence did not amount to gross negligence, the minority did find that the Master's conduct constituted gross negligence. However, and in any event, the court found that such errors were not attributable to the shipowner "himself" for the purpose of breaking limitation.
- The Court rejected the argument that the shore-based Technical Superintendent (TSI) should be identified with the shipowner's management. The TSI acted as a technical support function without specific nautical insight into the situation and did not act with gross negligence.
- Crucially, the Court found it unproven that the shipowner's management had actual "knowledge" that damage was a probable consequence of their actions,

as they were genuinely unaware that the anchor had been lost.

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](#), 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:

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