

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!

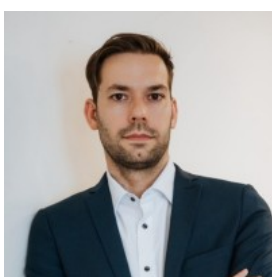
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TLLC Cross-border Questionnaire

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?

The immediate step is to gather reliable information on the casualty from the Master, witnesses, and principals, in order to coordinate assistance of authorities and surveyors. Evidence preservation is paramount.

A parallel legal assessment is carried out to evaluate the risk of vessel arrest, potential claims, and the need to arrange for a letter of undertaking or other form of security.

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

The priorities are crew safety, environmental protection, and preservation of evidence. Early surveys are coordinated to document the condition of the vessel and cargo. The Master and crew are assisted when interacting with authorities to ensure statements are accurate and rights are respected. The risk of arrest is assessed and security options are prepared in advance to mitigate operational disruption. Communications with public authorities are centralized to avoid inconsistent reporting. Relevant documents and logs are secured to protect the client’s position.

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

Depending on the casualty, public authorities may include the Panama Maritime Authority (AMP), if within Canal waters, the Panama Canal Authority (ACP). If pollution is suspected, the National Environmental Authority (MiAmbiente) may be involved.

Depending on the nature, other public entities such as the Air and Sea Service (SENAN) and the prosecutor’s office may also participate.

Private parties may include cargo interests, charterers, salvors, pilots, surveyors, tug companies, agents, P&I Club correspondents, Class, P&I Clubs, and H&M underwriters.

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

Investigations are administrative and conducted by the AMP and/or ACP through its technical and safety departments. The Flag-state will typically send an investigator as well.

If the incident takes place in Canal jurisdiction, ACP will also conduct its own investigation under the Panama Canal regulations, which will include a hearing before its Board of Inspectors.

Lawyers support by coordinating document disclosure, preparing the crew for interviews, ensuring their legal protections, and overseeing the chain of custody for technical evidence. Surveys arranged by the P&I Club and/or H&M underwriters typically run in parallel.

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?

A casualty can lead to administrative penalties imposed by the AMP and, if relevant, the ACP or MiAmbiente.

Civil liability may arise from cargo damage, collision, personal injury, or delay.

Criminal liability is possible when there is loss of life, severe environmental harm, or gross negligence, although most marine casualties remain administrative and civil matters.

Fines vary depending on severity and cooperation, and administrative investigations by the AMP may take several months.

Investigations by the Board of Inspectors of the ACP end with the issuance of an Opinion, which is generally issued within 4 to 6 weeks of the casualty.

Civil claims before the Maritime Courts can last about 1.5 to 2 years if litigated in full.

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

Yes. The AMP and, within its jurisdiction, the ACP can order wreck removal if the vessel poses a risk to navigation, the environment, or port and Canal operations. If the owner does not comply, the authority may remove it at the owner’s expense.

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

Claims may involve cargo damage under bills of lading, collision or allision, pollution damages, salvage, wreck removal, personal injury, death, or economic loss from delay or obstruction of waterways.

Maritime judicial claims are brought before Panama’s specialized Maritime Courts, which apply the procedural rules of Law 8 of 1982, as amended.

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

Yes. Panama has strong environmental legislation. If pollution occurs, affected parties such as fishermen, tourism operators, and nearby communities may bring civil claims. The National Environmental Authority may also impose administrative penalties and require remediation. Criminal actions may also arise from pollution.

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

Yes. Panama is well known for its efficient arrest procedures. A wide range of maritime claims can support arrest, including cargo damage, unpaid bunkers, collision damages, personal injury, death, and pollution claims.

In Canal jurisdiction, ACP may impose operational measures or hold the vessel pending the posting of security. The AMP may also impose such measures.

Generally, security can be provided through P&I letters of undertaking, local bank guarantees, local insurance bonds, or deposits. In judicial claims, P&I LoUs’ can only be posted with consent of the claimant.

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

Under Law 55 of 2008, which governs maritime commerce in Panama, carriers may invoke the fire defense, error in navigation, act of God, perils of the sea, inherent vice of cargo, act of the shipper, quarantine restrictions, and war or civil disturbance, among others, as carrier defenses.

Carriers may also rely on due diligence exercised before and at the beginning of the voyage to make the ship seaworthy and on package limitation or statutory limitation of liability mechanisms.

In judicial claims, carriers may summon third-parties into proceedings, raise time-bar motions, motions to dismiss due to lack of standing to sue, among others.

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

Administrative fines are set based on the nature of the violation, the level of environmental impact, if any, and cooperation during the investigation.

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

The Republic of Panama is not a signatory to the 1976 Limitation Convention; however, its text was largely incorporated into Law No. 8 of 1982, which governs maritime procedure in Panama. Panama has not adopted the 1996 protocol to the 1976 convention nor has incorporated its text into Law No. 8 of 1982.

The main differences between the Panamanian Limitation of Liability provisions and the 1976 Convention are that the Panamanian limitation provisions:

- a) Changed the word ‘including’ to ‘excluding’ when referring to limitation of liability for damages to ‘harbour works’. The term ‘harbour works’ was translated into Spanish as ‘*obras portuarias*’, which literally means ‘port works’ and seems to be intended to be broad in its application.
- b) Conduct barring limitation: A person liable shall not be entitled to limit his liability if it is proven that the loss resulted from his personal act or omission, committed with the intent to cause such loss, or recklessly or with knowledge that such loss would probably result.

Limitation proceedings must be commenced within 6-months of receiving the first written notice.

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

Panama has ratified the following international conventions on pollution and wreck removal that could be applicable:

- the International Convention for the Prevention of Pollution from Ships (MARPOL) and annexes;
- the International Convention on Civil Liability for Oil Pollution (CLC);
- the International Convention on Civil Liability for Bunker Oil Pollution Damage (BUNKER);
- the International Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Convention); and
- the Nairobi International Convention on the Removal of Wrecks.

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?

The main domestic laws are Law 55 of 2008 (Maritime Commerce) and Law 8 of 1982 (Maritime Procedure).

Environmental protection measures are governed by Law 41 and regulations enforced by MiAmbiente.

AMP regulations also govern pollution response, casualty reporting, and safety measures.

In Canal waters, the Panama Canal Authority applies its own regulations for incident response, navigation safety, and operational claims.

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

For incidents occurring within Panamanian Canal waters, the investigation is governed by the autonomous legal regime of the ACP, including the Regulations for Navigation in Canal Waters.

ACP investigations are conducted by its Board of Inspectors.

The Board’s decisions come in the form of an opinion and do not establish civil liability, but they can trigger administrative actions and are highly relevant in civil proceedings, especially in cases involving collisions, personal injuries, structural damage, or pollution in Canal waters.

The Board’s opinion is not legally binding on the vessel and/or the owners nor other parties in interest. It is only binding against the ACP if the Board finds fault on their part.

If there is fault on the part of the ACP, the vessel’s interest may file an administrative claim against the ACP to recover its damages, within two (2) years of the date of the accident, otherwise the same will be time barred. If the claimant does not agree with the determination or amount offered by the ACP, it will be entitled to file a claim against the ACP before the Maritime Courts of Panama.

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