

3RD MARITIME SAFETY PACKAGE

7 – INSURANCE OF SHIPOWNERS FOR MARITIME CLAIMS

Purpose

To require all shipowners to be insured against damage to third parties caused by their ships.

Measures adopted

The new rules fill a legal vacuum in maritime law - there is no general obligation to be insured under international law.

The directive stipulates the same level of cover as set in the International Maritime Organization (IMO) Convention on limitation of liability for maritime claims in its 1996 version (LLMC 1996) – the cover of the LLMC 1996 is high enough to compensate victims in most cases.

The new Directive provides that:

- all ships flying the flag of an EU country (throughout the world) and all ships intending to stop in an EU port, must have insurance cover
- the cover must correspond to the ceilings in the LLMC 1996
- proof of insurance will be a commercial insurance certificate
- inspection under the port-state control directive can verify whether the ship is carrying an insurance certificate
- ships not carrying a certificate may be detained or expelled, over and above any fines imposed by the EU country concerned
- the rules will take effect on 1 January 2012, by when EU member States have committed to ratify the LLMC 1996

Examples of expected effects

- A small number of ships have no insurance at all. For example, in January 2009 a cargo ship grounded off Marseille, just when its owner was in financial difficulties and the ship was no longer insured.
- Although most ships are insured, many have much lower cover than required by the LLMC 1996. To date, only 20% of the world fleet flies the flags of countries that have signed the convention.
- A mandatory insurance scheme will help get rid of substandard ships, with insurers playing a key role. The new scheme will benefit owners with adequate liability cover because they will no longer have to face unfair competition from uninsured or under-insured operators.

- Anyone (individuals, firms and public authorities) claiming compensation for damage by a vessel from its owner will benefit from implementation of the 1996 convention, because they will receive adequate compensation in most cases (provided the owner is liable under the applicable national law).
- The rules do not cover damage from oil spills, which are covered by a specific international convention ratified by most countries throughout the world (CLC/IOPCF). European Community requirements should cover all other cases, until the specific international conventions (Bunkers, etc.) take effect.
- The liability schemes of shipowners will continue to differ from country to country, except on one key element: limitation of liability at levels fixed by the 1996 Convention which are sufficient to adequately cover most circumstances.