

Turkey – mandatory P&I cover

On 14 November 2010, Turkey issued new regulations requiring all Turkish flagged vessels over 300 gts and all other vessels calling at a port, terminal, anchorage or other facilities within Turkish territorial waters, to have valid P&I insurance policies covering maritime liabilities up to the limitation level laid down in the 1976 Limitation Convention and the 1996 Protocol to that Convention.

The main requirements under these regulations are summarised below:-

- **Article 6 – Notification Requirement**

Prior to a vessel entering Turkish territorial waters and upon the request of the relevant competent authority, the vessel has to deliver a copy of the vessel's insurance policy through a shipping agent based in Turkey to either the Port Authority of the nearest Turkish port on the vessel's route or to the Port Authority of the vessel's intended port of call.

Where the vessel's insurance policy is cancelled, suspended or becomes invalid for any reason whatsoever, a new valid insurance policy is to be produced as above before the vessel will be allowed to leave Turkish territorial waters.

Failing production of a valid insurance policy as above, no permit will be issued by the Port Authority for the ship to dock, moor or anchor within Turkish territorial waters.

- **Article 7 – Supervision and Compliance**

The vessel's insurance policy shall be carried onboard and be available for inspection at any time. If no valid insurance policy is carried onboard, the relevant Port Authority may order the vessel to leave the port and/ or the port facility immediately.

- **Article 8 – Penal Provisions**

Failure to comply with the above requirements will expose the vessel to fines ranging from TL. 500.00 to TL.20,000.00. In the event of a repeat offence, the fines may be doubled.

The above regulations will come into force on 1 July, 2011.

The Association understands that the production of a copy of the vessel's Certificate of Entry, with reference to the Club's Rules, will suffice for the purpose of complying with these new regulations.

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Regulation on the requirement to obtain insurance coverage for vessels against maritime claims and supervision thereof

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Purpose

ARTICLE 1 -

(1) The purpose of this regulation is to set out the obligations and requirements of vessels flying Turkish Flag and for vessels, regardless of the flag state, arriving in or sailing out of ports, terminals, anchorages and other ports facilities in Turkish territorial waters to obtain insurance coverage against maritime claims and to establish policies and procedures for their supervision.

Scope

ARTICLE 2 -

- (1) This regulation shall apply to vessels of 300gt and over flying Turkish Flags and for vessels, regardless of the flag State, bound for or leaving ports, terminals, anchorages and other ports facilities in Turkish territorial waters
- (2) This regulation shall not apply to warships such as naval ships, auxiliary naval ships and vessels owned or operated by a State and used for the time being by or on behalf of a State/Government for non-commercial purposes or for public service purposes.

Basis

ARTICLE 3 -

(1) This Regulation has been prepared based on the provisions of Law no 618, dated April 14, 1941 on Ports, Law no, 4922 dated June 10, 1946 on the Protection of Life and Property at Sea, and Decree Law no 491, dated August 10, 1993 on the Organization and Duties of the Undersecretariat for Maritime Affairs.

Definitions

ARTICLE 4 -

(1) The following terms, when used in this Regulation shall have the following meanings;

- Maritime Claims: shall mean “Claims Subject to Limitation” and “Claims exempted from limitation” as these terms are respectively defined in articles 2 & 3 of the 1976 Convention on Limitation of Liability for Maritime Claims;
- Shipowner(s) : shall mean any natural or legal person(s) in whose name(s) the ship is registered with the register of ships; if the ship is not registered with the register of ships then any natural or legal person(s) who is(are) owner(s) of the ship; in cases where the ship is owned by a State, any other organization or person, such as the manager, agent or bareboat charterer, on whom the relevant state has conferred responsibility for operation of the ship and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities involved;
- Vessel: shall mean any vehicle able to navigate at sea except for craft under oars, regardless of its name, tonnage and purpose of use;
- Shipping agent: shall mean any commercial enterprise arranging and causing the transportation of cargo/passengers, providing information, preparing for and carrying out the sale/purchase or lease contracts for and on behalf of the ship owners, masters, operators or charterers of the vessels by the agreements they enter into, carrying out all the services included in the scope of activities and protecting rights of the represented natural and legal persons against third persons and parties, and ful-filling the relevant liabilities before such persons and parties duly acting for profit,
- GT: shall mean Gross Tonnage of vessel
- Protection and indemnity insurance: shall mean insurance with or without deductibles, and comprises, for example, indemnity insurance of the type currently provided by members of the International Group of P & I Clubs, and other effective forms of insurance (including proved self insurance) and financial security offering similar conditions of cover;

- Port Authority: shall mean the port authorities affiliated with the Undersecretariat for Maritime Affairs;
- Port facility: shall mean any area of land or water, or land and water within a port including without limitation any buildings, installations, terminals, floating terminals and transportation facilities, shipyards, ship repair yards or equipment in or on the relevant area used either wholly or partly in connection with the loading or unloading of goods to or from ships, the moving of passengers to or from ships, or for maintenance, repair and/or anchorage of ships or for the provision of services to ships
- Undersecretariat: shall mean the Undersecretariat for Maritime Affairs;
- The 1976 Convention: shall mean the Convention on Limitation of Liability for Maritime Claims of 19 November 1976 and that was published in the Official Gazette issue no 17007 and dated June 04, 1980;
- Protocol of 1996: shall mean the Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims of 19 November 1976 and that was published in the Official Gazette issue no 27520, dated March 13, 2010.

Insurance for Maritime Claims

ARTICLE 5 -

- (1) Ship-owners of vessels flying Turkish flag are required to have their vessels insured under a protection and indemnity insurance policy against maritime claims.
 - (2) Shipowners of vessels flying a flag other than Turkish flag are required to have a valid protection and indemnity insurance policy against maritime claims in place when such vessels enter a port facility included within the scope of this Regulation.
 - (3) The insurance referred to in paragraphs 1 and 2 shall cover maritime claims subject to limitation under the framework of 1976 Convention and the Protocol of 1996. The amount of the insurance for each and every ship per incident shall be equal to the relevant maximum amount for the limitation of liability as laid down in the 1996 Convention.

Requirement of Notification

ARTICLE 6 -

- (1) Upon request of relevant competent authorities, the operator, agent or captain of a ship bound for a port or offshore terminal under the

jurisdiction of Turkey or which intends to anchor in territorial waters of Turkey for the purposes of loading, unloading or anchoring shall deliver a copy of the insurance policy to the nearest port authority on their route or to the port authority of the port at which the vessel calls through a shipping agent based in Turkey prior to entering Turkish territorial waters.

(2) Ship-owners are required to obtain a new protection and indemnity insurance policy for their vessels in accordance with the provisions of this Regulation and submit a copy of such insurance policy to the nearest port authority on their route or to the port authority of the port at which the vessel calls through a shipping agent based in Turkey before the relevant vessel leaves Turkish territorial waters in cases where the existing protection and indemnity policies providing insurance coverage for vessels against maritime claims have been cancelled, suspended or have become null and void for any reason whatsoever.

(3). Relevant Port Authorities shall not issue permits for docking/mooring/anchoring and certificates of seaworthiness for vessels which fail to comply with the obligation of notification under this article

Supervision and Compliance

ARTICLE 7 -

- (1) It is a mandatory requirement that the insurance certificate and the protection and indemnity insurance policy against maritime claims shall be carried on board and available for inspection.
 - (2) The relevant port authority shall, at any time, have the right to check and verify whether such insurance policy is carried on board and whether such insurance policy is valid or not.
 - (3) The relevant port authority may order any vessel to immediately leave the port and port facilities in cases where it is found that the vessel fails to comply with the requirement of carrying the protection and indemnity insurance policy against maritime claims on board. In such a case, the relevant port authority shall inform the Undersecretariat and relevant flag state of the situation. In addition to the foregoing, requests by ship-owner(s) of any such vessel to enter the port facility shall not be approved unless and until the original copy of the protection and indemnity insurance is presented by the shipowner(s).

Penal Provisions

ARTICLE 8 -

- (1) Penal sanctions shall be imposed upon the vessel by the relevant port authority relying upon the provisions of articles 2 and 11 of the Law on Ports if the provisions of second paragraph of article 6 are violated and upon the occurrence of any cases or circumstances specified in third paragraph of article 6 and/or third paragraph of article 7.

Other Provisions

ARTICLE 9 -

- (1) The provisions of the relevant legislation shall apply to any matter that is not addressed in this Regulation.
- (2) Whereas the application of the provisions of this Regulation is without prejudice to the imposition of other sanctions and penalties provided in national legislation and international treaties or conventions.

Effective

ARTICLE 10 -

- (1) This Regulation will take effect on 01.07.2011

Enforcement

ARTICLE 11 -

- (1) The Minister to whom the Undersecretariat for Maritime Affairs is affiliated shall enforce the provisions of this Regulation.

** With thanks to Vistan, Istanbul for kindly providing translation of the regulations*