

IUMI Policy Agenda

7. Liability

The insurance of marine liabilities helps to protect third party rights. Since the liability (e.g. for environmental damages caused by an oil-spill) can be extraordinarily high, sufficient insurance coverage for these liabilities is crucial. Many international liability conventions rule compulsory insurance requirements, and direct action against insurers is partly ruled as well.

Marine liability insurance is mainly provided by Protection and Indemnity Clubs (P&I Clubs) organized as mutual insurers with shipowners as members. The 12 largest P&I Clubs are organized under the umbrella of the International Group of P&I Clubs (IG).

While the member companies of IUMI's member associations predominantly provide insurance coverage for property damages to the hull and machinery of vessels or offshore energy units, and cargoes in transit, some of the companies also offer marine liability insurance through reinsurance arrangements or directly through covers such as 'fixed premium P&I' or 'war P&I'.

1910 Collision Convention

The Comité Maritime International (CMI), at the recent Executive Council meeting, established an international working group to consider the review of one of CMI's most successful conventions, the Collision Convention 1910. The Legal Committee of the IMO has shown interest in assisting the CMI in piloting this project. The CMI Intersessional Working Group aims to provide input of what the new convention should include prior to LEG 110.

The initiative for a new IWG flows from two sources. First, the IMO is reviewing a series of instruments, including the Collision Convention 1910, as may be required to accommodate the concept of autonomous ships. Secondly, the Italian Maritime Law Association set up its own working group in 2019 to canvass its membership on the expediency of reviewing the Collision Convention 1910 along with the 1952 conventions concerning civil and penal jurisdiction where a collision occurs.

The 1910 convention covers very important aspects of collision liability. It has been adopted by numerous countries. The review could include the scope of application of a revised convention, court jurisdiction over collisions and compulsory insurance for collision liability. All aspects of the 1910 convention could be considered, and the CMI

prepared a questionnaire to maritime law associations in February 2023 to get some further guidance. IUMI is represented in the CMI WG by the Legal & Liability Committee Chair Charles Fernandez.

Relevant authority / organisations and documents

Non-IG insurers

- **IMO – Legal Committee**
 - **Circular Letter 3464:** Guidelines for accepting insurance companies, financial security providers and the IG P & I Clubs, July 2014.
 - **LEG 107/6:** Compulsory insurance requirements under IMO conventions and insurance problems, submitted by Canada, Denmark, Italy, Japan, Norway and Republic of Korea, 9 January 2021.
 - **LEG 108/5:** Review of insurance problems with non-IG insurers, submitted by IOPC Funds, 20 April 2021.
 - **LEG109/13:** Proposal to add a new output under the work programme on the Development of guidance for the proper implementation and application of IMO liability and compensation conventions, submitted by Canada, Denmark, Italy, Japan and United Arab Emirates, 24 December 2021.
 - **LEG110/7:** Report of the Correspondence Group on measures to transparently assess the need to amend liability limits, submitted by Australia, 20 December 2022.
 - **LEG110/10:** Proposed measures related to Guidance for the proper implementation and application of IMO liability and compensation conventions, submitted by Canada, Greece, Italy, Malaysia, Republic of Korea, United Arab Emirates, ICS, IG and IUMI, 22 December 2022.
 - **LEG110/WP.6:** Measures to assess the need to amend liability limits, report of the Working Group, 20 March 2023.
- **IOPC Funds**
 - **IOPC/OCT18/5/5/1:** The 20 incidents involving the IOPC Funds and non-IG insurers are available in this document.
 - **IOPC/NOV20/5/5/1:** Conclusions of the sixth joint Audit Body and the recommended measures and future tasks to be undertaken in respect of the risk relating to 'non-IG insurers'.
- **CMI:** Questionnaire to maritime law associations on the collision conventions, 20 February 2023.

Timeline / important dates

- LEG 107: 27-30 November, 1 December 2020.
- LEG 108: 26-30 July 2021.
- IMO Council, 34th extraordinary session, 8-12 November 2021.
- IMO Assembly, 6-15 December 2021.



- LEG 109: 21-25 March 2022.
- LEG 110: 20-24 March 2023.
- CMI questionnaire: deadline 31 May 2023.
- CMI colloquium: 14-16 June 2023, Montreal.

IUMI will:

- Monitor developments via the IUMI Legal & Liability Committee and Policy Forum.
- Liaise directly with the IMO LEG as required to represent members' interests.
- Support a new output on addressing problems with so called 'non-IG insurers'.
- If agreed, support the work of the IMO Legal Committee in developing further clarity and education to avoid problems with so called 'non-IG insurers'.
- Explain to IMO Member States and other interested bodies such as the IOPC Funds the practical aspects of insurance related to marine liability insurance of insurance entities not belonging to the IG.