

Ingosstrakh's Insureds have recently faced with increasing number of claims in respect of infringements of or non-compliance with the provisions relating to construction, adaptation and equipment of ships contained in the International Conventions (especially "MARPOL") in Ghana.

These claims are not recoverable under standard P&I cover and in order to assist Owners with that complicated issue the below recommendations were prepared under assistance of Messrs. Eltvedt & O'Sullivan and in collaboration with Messrs. TCI Tema:

GHANA: GMA fines on alleged Faulty Sewage treatment Plant

Shipping operators trading in Ghanaian territorial waters may have experienced fixed fines in the amount of USD 36 000 in an increasing way since their GHANAIAN MARITIME POLLUTION ACT on 2016 came into force. This text embodied the latest MARPOL amendments on "prevention of pollution by sewage from ships" dd 01/01/2013 together with the MEPC 62 ratified on July 2011 and IMO regulations.

A) Legal grounds:

The Maritime pollution 2016 provides a set of regulation to prevent sewage pollution discharge from ship unless a sewage treatment plant (CDU) allowing the discharge of clear effluent at a distance of 3 NM from nearest land has been installed on board (i.e. MARPOL ANEX IV regulation 11 .1-2 provides general requirements in respect of sewage treatment plant for vessels over 400 tons gross tonnage or less but if carrying more than 15 persons with approved certificates and maintenance records), but also provides that "the holding tank shall have a means to indicate visually the amount of its content".

As per Regulation 3 "surveys", the sewage treatment plant shall meet operational requirements based on the test methods developed by the Organization (i).

The Resolution PEPC 3/12/1976 VI/17 annexes IV, provides that tests can be performed from the ship and analysis duration would be of 10 days.

B) Procedure:

GMA is empowered by Parliament to fight any pollution from marine source due to sanitary issues with water in Ghana at the moment. So standard fixed fines and charges have been set with "fixed scale" i.e. for sewage alleged malfunction of the system plant - USD 36 000.

This fine is levied for unclear effluents collected at the discharge outside the vessel BUT also for unclear effluents from samples collected at the discharge end of the Holding tank. (This is an interpretation maybe a bit "deviated" of the MARPOL provisions.)

As for GMA interpretation, if the sample of the treated sewage show any visible floating solids or a brown liquid that would discolor the surrounding sea and the fine is levied.

They do not proceed to Laboratory test (too expensive for the state and on the other side, the ship could hardly afford the 10 days duration "for samplings to have spoken").

C) Recommendations:

Ensure that all certificates are updated /in order.

Owners should not discharge sewage water (even clear effluents) and within the 12 NM from land.

Make sure before entering Territorial waters that all filters are clean and that system is functioning properly and if possible have discharged sewage treated waters before entering Ghanaian waters so that holding tank is more acceptable.