

**INTERNATIONAL INSURANCE LAW ASSOCIATION/ AIDA
WORLD CONGRESS**

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**Topic IV - POLLUTION INSURANCE
- METHODS, COVERAGE AND BENEFICIARIES**

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QUESTIONNAIRE

Introduction

The topic relating to environmental damage insurance covering losses resulting from pollution was selected by AIDA's Brazilian Chapter for discussion during the World Congress to be held in Rio de Janeiro, in October 2018.

Such choice was justified by the growing frequency and intensity of environmental damages worldwide that sometimes affect entire communities and stop the production of goods and the supply of basic public services. History has been disclosing events of great impact relating to chemical industries (such as Seveso/1976 and Bhopal/1984), to oil industries (such as black tides from oil spill in several locations, and Exxon Valdez in the Gulf of Alaska/1989), to nuclear industry (such as Three Miles Island, Chernobyl), and, recently, the explosion at Deepwater Horizon in 2010, in the Gulf of Mexico, that produced a significant repercussion.

In Brazil, environmental pollution has been raising great awareness and discussions, particularly in view of the last relevant event occurred in Mariana city (State of Minas Gerais), in November 2015, resulting from the collapse of the Fundão dam, that spilled 50 million cubic meters of mine wastes downstream, contaminated the Doce River in its whole extension, and caused huge environmental, social and economic impact to populations and cities.

This context requires an analysis on how national legislations address the matter, as well as on the contribution provided by the insurance industry to either remedy or mitigate the impact from environmental damages. The local reports shall be particularly useful to the assessment of an issue whose perceptions may vary on a significant basis, depending on national legal and administrative peculiarities. Please prepare your report in such a way as to submit the information as required for a correct and full understanding of the answers to the questions made herein.

This questionnaire contains only indicative questions. Please try to inform all the issues you may deem as important to the study of the topic, in the light of your country's scenario. Any information and comments shall be relevant. As the purpose of this questionnaire is to know the situation in your country, we kindly ask you to provide answers that specifically refer to such scenario.

PRELIMINARY REMARK:

Please note that the questions under “1. Environmental Legal Aspects” relating to liability issues are aimed at ensuring a better understanding of the pollution insurance

law and practice in different countries. Answering those questions is left to the sole discretion of the national reporter who may freely choose to answer only questions relating to insurance law aspects (i.e. to questions from “2. Legal aspects on environmental insurance policies” to “7. Academic development”).

1. Environmental legal aspects (answer is optional)

1.1. Which are the major general rules on civil liability arising from environmental damages in your country?

2872 numbered *Code on Environment* is in force in Turkey since 11th of August 1983. Aim of the code is to protect the existence of the environment which is the common wealth of all the living creatures, through the principles of sustainable environment and sustainable development. According to the code all the people who pollute and give damage to the environment are liable from the damages arising from pollution and deterioration without regards to their fault (art.28).

5312 numbered *Law Pertaining to Principles of Emergency Response and Compensation for Damages in Pollution of Marine Environment by Oil and Other Harmful Substances* (hereinafter will be referred to as “OSRL”) is in force in Turkey since 11th of March 2005. This is the legal framework aiming to deal with the potential threat of accidental oil or other harmful substances’ (the ones which are listed in the Annex II of Marpol 73/78 Convention) pollution that can be experienced along the coastal areas of the country. Liable parties of ships and coastal facilities under the OSRL are liable jointly and separately for: - Compensation of expenditures for cleaning; - Expenditures for preventive measures; - Any damage to living resources and marine life; - Reinstatement of degenerated environment; - Expenditures for transport and disposal of any waste collected; - Damages to natural or living resources that are exploited for subsistence purposes; - Damage to private property; - Losses stemming from personal injury or death; - Loss of income, damage to capacity to earn income or revenues; and - Other public losses caused by pollution or risk of pollution stemming from any incident involving ships or coastal facilities in any area of enforcement (art.6).

Regulation on Transportation of Dangerous Goods by Road has been published on 15th of June 2008 in 26907 numbered Official Gazette. According to the regulation; the general rule in the transportation of dangerous goods by road is the transportation of them in an economic, controlled, serial and secure manner, without giving damage to human health and giving the minimum damage to the environment (art.1).

Regulation on Transportation of Dangerous Goods by Sea has been published on 3rd of March 2015 in 29284 numbered Official Gazette. According to the regulation, the general rule in the transportation of dangerous goods by sea is the transportation of them in an economic, controlled, serial and secure manner, without giving damage to human health and giving the minimum damage to the environment (art.1). All the parties that attribute to the transportation of dangerous goods by sea are under obligation to fulfill the transportation in a safe and secure manner and without giving damage to the environment. Besides the parties are also under obligation to prevent the damages and take all the necessary precautions to decrease the damage upon such accident.

6102 numbered *Turkish Commercial Code* (hereinafter will be referred to as “TCC”) is in force in Turkey since 1st of July 2012. There are six books in TCC governing important issues related to commercial law. 5th book of TCC, named as “Marine Commerce”, has important articles governing general rules on civil liability arising from environmental damages in Turkey. Hereunder these articles are briefly analyzed as:

- Obligation to Establish Necessary Order to Prevent the Occurrence of Environmental Pollution in Passenger Transportation

Carrier who carries passengers, is under obligation to transport the passengers to the destination through a comfortable journey and healthily, to establish a necessary order to prevent the occurrence of especially air, sound, ground and environmental pollution, to take all the necessary precautions and to obey the rules governed in legislation (TCC art. 914).

- Obligations and Debts Related to Protection of Environment in Unrecoverably Sank, Destruction, Exploit and Destroy of a Ship

Loss of a registered ship due to reasons of her unrecoverably sank, destruction, exploit and destroy, terminates the right of ownership on the ship. However, movable property on the utilizable wreck of the ship and owner's obligations and debts related to all types of wreck removal, protection of environment and related issues proceed (TCC art. 1003).

- Salvor's and Saved Ship's Obligations in terms of Showing Due Care to Prevent the Occurrence of the Environmental Damage and Limit It

Salvor has obligation to fulfill the salvage operation in due care. While fulfilling this duty salvor is also under obligation to show due care to prevent the occurrence of the environmental damage and limit it (TCC art. 1303, para.1). Besides, the owner of the ship which is in danger is under obligation to cooperate with the salvor in all means during the salvage operation. Still, while fulfilling this duty, the owner of the ship which is in danger is also under obligation to show due care to prevent the occurrence of the environmental damage and limit it (TCC art.1303, para.2). These articles of TCC, governing the obligations of salvor and saved ship in terms of showing due care to prevent the occurrence of environmental damage and limit it are compulsory, hence the parties have no right to remove them (TCC art. 1302, para.2).

- Demand of a Special Compensation in Salvage Activity

If the salvor has carried out salvage operations in respect of a ship which by itself or its cargo threatened damage to the environment and has failed to earn a reward under art.1305 of TCC, at least equivalent to the special compensation assessable in accordance with this article, he shall be entitled to special compensation from the owner of that saved ship equivalent to his expenses as herein defined (TCC art. 1308). This special compensation is regarded as a "maritime claim" in terms of application of TCC (TCC art. 1352).

- Owner's Liability from Oil Pollution Damage

International Convention on Civil Liability for Oil Pollution Damage (hereinafter will be referred to as "CLC 92") and *International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage* (hereinafter will be referred to as "FUND 92) and all the amendments on these conventions, will be directly applied to govern the civil liability regime of owner arising from oil pollution damages as defined in art.1.6 of CLC 92 (TCC art. 1336). Hence the owner of a ship at the time of an incident, or, where the incident consists of a series of occurrences, at the time of the first such occurrence, shall be liable for any pollution damage caused by the ship as a result of the incident (CLC 92 art.III, para.1).

- Limitation of Liability Arising From Environmental Damages

Convention on Limitation of Liability for Maritime Claims (hereinafter will be referred to as "LLMC 76") and the amendment protocol of the Convention (hereinafter will be referred to as "1996 Protocol") and all the amendments on LLMC 76 will be directly applied to govern the limitation

of liability regime of a liable person whose liability is arising from maritime claims set under LLMC 76. There are six claims which are subjected to limitation (LLMC 76 art.II):

- a) Claims in respect of loss of life or personal injury or loss of or damage to property (including damage to harbour works, basins and waterways and aids to navigation), occurring on board or in direct connexion with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;
- (b) Claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;
- (c) Claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connexion with the operation of the ship or salvage operations;
- (d) Claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;
- (e) Claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship;
- (f) Claims of a person other than the person liable in respect of measures taken in order to avert or minimize loss for which the person liable may limit his liability in accordance with this Convention, and further loss caused by such measures.

Above placed claims, especially the ones which are written under paragraph (d) and (e) are related to the environmental damages. Thus according to LLMC 76, the liable person can limit his liability arising from these claims related to environmental damages. However Turkey has put a reservation to the application of these two paragraphs while signing the 1996 Protocol and article 1331 of TCC, clearly states that these claims related to environmental damages are not subject to limitation. Hence civil liability of a liable person arising from one of these two paragraphs related to environmental damages is not subject to limitation.

Turkey is a contracting state to *International Convention on Civil Liability for Bunker Oil Pollution Damage* (hereinafter will be referred to as “BUNKER Convention”). According to the BUNKER Convention, the shipowner at the time of an incident shall be liable for pollution damage caused by any bunker oil on board or originating from the ship, provided that, if an incident consists of a series of occurrences having the same origin, the liability shall attach to the shipowner at the time of the first of such occurrences (Bunker Convention art.III, para.1).

Turkey has legislative studies for becoming a contracting state to *International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea* (hereinafter will be referred to as “HNS Convention”). However the convention hasn't got in force yet. According to the HNS Convention, the owner at the time of an incident shall be liable for damage caused by any hazardous and noxious substances in connection with their carriage by sea on board the ship, provided that if an incident consists of a series of occurrences having the same origin the liability shall attach to the owner at the time of the first of such occurrences (HNS Convention art.VII, para.1).

Finally, Turkey is a contracting state to *International Convention for the Prevention of Pollution from Ships* (hereinafter will be referred to as “MARPOL”). Turkey is contracting state to the I. (governing the prevention of pollution by oil), II. (governing the prevention of pollution by noxious liquid substances in bulk) and V. (governing the prevention of pollution by garbage from ships) annexes of MARPOL.

1.2. Please describe the main characteristics and objectives of environmental civil liability in the light of national legislation and court precedents.

1.2.1. How are environmental damages described under the law?

According to *Code on Environment*, “environmental damage” is described as all types of negative effects occur in the environment that may ruin the health of the living creatures, environmental values and ecological balance (art.2).

According to *TCC* “environmental damage” is described as the severe material loss given to the human health and living sea creatures in the coastal waters and adjacent zones due to pollution, infection, fire, explosion and such important cases (art. 1303, para.3).

As Turkey is contracting state to *CLC 92*, the definition set in the convention should be considered. Hence international conventions that Turkey is contracting state to are regarded to be on top of the Turkish norm hierarchy, therefore have priority over the rest national legislation in terms of application. According to *CLC 92* “pollution damage” is described as loss or damage caused outside the ship carrying oil by contamination resulting from the escape or discharge of oil from the ship, wherever such escape or discharge may occur, and includes the costs of preventive measures and further loss or damage caused by preventive measures (art.I, para.6).

As Turkey is contracting state to *Bunker Convention*, the definition set in the convention should be considered. Hence international conventions that Turkey is contracting state to are regarded to be on top of the Turkish norm hierarchy, therefore have priority over the rest national legislation in terms of application. According to *BUNKER Convention* “pollution damage” is described as loss or damage caused outside the ship by contamination resulting from the escape or discharge of bunker oil from the ship, wherever such escape or discharge may occur, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken; and b. the costs of preventive measures and further loss and damage caused by preventive measures (art.I, para.9).

1.2.2. Who may be (either directly or indirectly) made liable?

As the general rule set in the *Code on Environment*, **all the people** who pollute and give damage to the environment are liable from the damages arising from pollution and deterioration without regards to their fault (art.28). Besides this general article, liable persons are clearly pointed in accordance with the type of the environmental damage.

Carrier who carries passengers, is under obligation to transport the passengers to the destination through a comfortable journey and healthily, to establish a necessary order to prevent the occurrence of especially air, sound, ground and environmental pollution, to take all the necessary precautions and to obey the rules governed in legislation, for instance (*TCC art. 914*). Besides **owner** has obligations and debts related to all types of wreck removal, protection of environment and related issues in times when his ship sank unrecoverably, devastates exploits or destroys (*TCC art. 1003*).

Owner who is defined as the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, is also liable from the pollution damage governed under *CLC 92*.

Shipowner who is defined as the owner, including the registered owner, bareboat charterer, manager and operator of the ship, is also liable from the pollution damage governed under *Bunker Convention*.

Bareboat charterers are regarded as owners in their relationship with third persons (TCC art.1061, para.2). Thus they are subject to all of the liabilities of owner pointed above.

On the other hand **salvor** is under obligation to show due care to prevent the occurrence of the environmental damage and limit it (TCC art. 1303, para.1).

Finally **coastal facilities** under the OSRL are liable jointly and separately for: - Compensation of expenditures for cleaning; - Expenditures for preventive measures; - Any damage to living resources and marine life; - Reinstatement of degenerated environment; - Expenditures for transport and disposal of any waste collected; - Damages to natural or living resources that are exploited for subsistence purposes; - Damage to private property; - Losses stemming from personal injury or death; - Loss of income, damage to capacity to earn income or revenues; and - Other public losses caused by pollution or risk of pollution stemming from any incident involving ships or coastal facilities in any area of enforcement (art.6).

1.2.3. How is the determination of causal link of environmental damages?

Upon the occurrence of the damage a technical survey report is requested from the court by the person who suffers damage from the environmental pollution. In times when it is determined that the environmental pollution damage is arising as a result of the actions of the liable person, causality link is regarded to be connected in between that action and the damage.

1.2.4. Does your legislation provide for strict or fault-based environmental liability?

All the legislation pointed above provides strict liability. Thus the person liable is held liable from the environmental damage without regards to his fault.

1.3. Are there peculiarities regarding environmental damages resulting from pollution? If so, are there differences in the legal treatment to air, soil or water pollution?

As a general rule set in the Code on Environment there are no peculiarities regarding environmental damages resulting from pollution. However, OSRL provides a special action procedure for pollution damages arisen from oil or other harmful substances and governs the response plans upon the occurrence of the environmental damage. According to the code, Ministry of Transportation, Maritime Affairs and Communication (hereinafter will be referred to as “MTMC”) is responsible for implementing emergency response plans to prevent pollution of the sea as caused by marine vehicles, matters of preparedness and intervention in case of pollution, and matters of compensation for damage and notification of guarantees of financial.

1.4. Which are the governmental entities in charge of authorizing and supervising activities that produce environmental impacts or pollution?

As pointed above, **MTMC** is responsible for implementing emergency response plans to prevent pollution of the sea as caused by marine vehicles, matters of preparedness and intervention in case of pollution, and matters of compensation for damage and notification of guarantees of financial. Furthermore, OSRL Implementation Regulation requires the establishment of the **Regional Emergency Centers (RECs)** that will serve as an intervention, operation and coordination center for the effective application of the **Regional Contingency Plans (RCPs)**. The location of the RECs, their abilities and capabilities, personnel, material and equipment will be determined as a result of the risk analysis to make a better response in case of an emergency. The **Coastal Facilities Contingency Plans (CFCPs)** are also prepared based on the risk assessments and personnel, material and equipment for response activities will be determined after these assessments.

Ministry of Environment and Urban Planning (hereinafter will be referred to as “MEUP”) which aims to plan, construct, re-cycle and effect works related to environmental management through a regulative, auditing, participating and solution oriented understanding in order to provide high qualified lives for urban and sustainable environment.

According to the Decree Law on the Structure and Duties of Ministry of Environment and Urban Planning, one of the duties of **Directorate General of Evaluation of Environmental Effect Permission and Auditing** which is one of the directorate generals of MEUP is; tracking all types of facilities and services pursuant to prevention of environmental pollution and raising environmental qualification, taking all necessary steps, auditing and giving environmental permissions and license (art.9, para. (b)).

1.4.1. What is the scope of activity of these entities?

MTMC aims to increase global competitiveness of the country and quality of life for the citizens by providing well balanced, secure, economical, attainable, ecological structure interested, sustainable, qualified and supervised services in transport, maritime, communications, space and information technologies over the level of contemporary civilization.

MEUP aims to plan, construct, re-cycle and effect works related to environmental management through a regulative, auditing, participating and solution oriented understanding in order to provide high qualified lives for urban and sustainable environment.

1.4.2 How do they operate, and on which legal grounds?

MTMC has been established and operate in accordance with Decree Law on the Structure and Duties of Ministry of Transport, Maritime Affairs and Communications¹. MEUP has been established and operate in accordance with the Decree Law on the Structure and Duties of Ministry of Environment and Urban Planning².

1.5. Is there a legal system of procedural mechanisms in case of environmental offenses?

See 1.4. above for a legal system of procedural mechanisms established for pollution damages arisen from oil or other harmful substances given to marine environment.

1.5.1. Who is in charge of keeping the environmental protection?

MTMC is responsible for implementing emergency response plans to prevent pollution of the sea as caused by marine vehicles, matters of preparedness and intervention in case of pollution, and matters of compensation for damage and notification of guarantees of financial (OSRL art.4).

1.5.2. How does this system work?

In OSRL, the organizational concept and coordination among the response units of the emergency response plans have been described in detail, and the content and the structural format of the national and regional contingency plans have been outlined.

In the OSRL Implementation Regulation, contingency planning is based on the gradual intervention approach according to the size of the pollution. In this scope, the following intervention levels are applied:

- Level 1: covers incidents at a coastal facility or ship that might occur because of operational activities and that might cause small-scale pollution. They are incidents that a coastal facility or a ship could take under control with its own equipment and capabilities;

¹ Date of Official Gazette: 01.11.2011, Number of Official Gazette: 28102.

² Date of Official Gazette: 04.07.2011, Number of Official Gazette: 27984

- Level 2: are medium-scale incidents that can be intervened and controlled with regional equipment and capabilities in situations where those of a coastal facility or ship are limited; and
- Level 3: covers large-scale incidents that arise from serious accidents that occur at sea and/or at a coastal facility.

Compensation for pollution damage caused by spills from oil tankers is governed by an international regime elaborated under the auspices of the IMO. In the scope of this regime, the CLC 1992 governs the liability of ship-owners for oil pollution damage. The convention lays down the principle of strict liability for ship-owners and creates a system of compulsory liability insurance. Furthermore, the FUND 92 Convention is supplementary to the CLC 1992. It establishes a regime for compensating victims when the compensation under the applicable CLC is inadequate.

As pointed above (see 1.1 above) Turkey is a signatory of these conventions and thus is a party to this international regime. Accordingly, as stipulated by the OSRL, ships carrying oil have to possess the financial documents required by these international conventions. Furthermore, for the maximum amount of liability attributable to any liable party and the total sum of liability of the liable parties for each ship will be abide by the provisions of these conventions. Although OSRL allows the ships to be abide by the international conventions in respect of the liability requirements, there is an incompatibility between the scope of liability for damages described in the OSRL and descriptions for the recoverable damages made by the international conventions. OSRL requires that responsible parties are liable for the damages to living resources and marine life and reinstatement of the degenerated environment. Damages to living resources and marine life are not included in the description of the recoverable damages of the international regime of liability and reinstatement of the degenerated environment is very limited. According to the international system, in the case of environmental damage, compensation is restricted to costs actually incurred or to be incurred for reasonable measures to reinstate the contaminated environment. Therefore, the recoverable damages definition provided by OSRL will not be applied to the ships and will only be applied to the coastal facilities. However, this situation can cause some problems during the implementation especially for the incidents involved by both the ships and coastal facilities. The scope of the recoverable damages required by the OSRL is more useful to protect the environment by maximizing the amount that can be compensated comparing to the international system. However, without applying the scope of the damages on the ships the protection of the environment will not be satisfied completely

2. Legal aspects on environmental insurance policies (answer is required)

2.1. Is there a specific legal framework to regulate environment insurance policies? If so, please describe such legislation, as well as the major features thereof.

The provision of Article 11(1) of Code on Insurance is as follows: *“The main content of insurance contracts is specified in accordance with the general terms approved by the Undersecretariat of Treasury and is to be applied by all insurance companies in a similar way. However, insurance companies can determine special conditions in accordance with the specialties of the matter. In that case, these special conditions shall not be misleading and will be shown clearly in the insurance contract under the title of special conditions.”*

The Insurance General Conditions, indeed, are mainly contractual provisions, showing the rights and obligations of the parties. However, due to the significance of the insurance in the economic life, these general conditions are subject to State control.

When the explicit wording of Article 11(I) of the Code on Insurance is taken into account, the legislator's demand is that each insurance company should prepare its own general conditions and

submit it to the Undersecretariat of Treasury for approval. In practice, however, the Undersecretariat of Treasury went beyond the approval power given by the legislator and assumed the mission of drafting the general conditions in the form of a common text on behalf of all insurance companies. In the Insurance General Conditions which are directly prepared by State (Undersecretariat of Treasury), no distinction has been made between insurer and the policyholder of being consumer or a merchant.

It is a fact that the insurers in our country use the general conditions prepared by the Undersecretariat instead of submitting their own text. Hereunder some of the general conditions prepared by the Undersecretariat are pointed:

01.09.2011 dated *General Conditions of Financial Liability Insurance on Environment Pollution* covers the liabilities of the insured which may arise due to the related articles of legislation governing environment through the sudden pollution of soil, inland waters and sea. In times when the liability has been covered by a compulsory insurance, insurer undertakes to cover the part of the liability which exceeds the limits of that compulsory insurance. Hence this insurance coverage is not compulsory.

01.07.2007 dated *General Conditions of Coastal Facilities' Compulsory Financial Liability Insurance on Marine Pollution* covers all the cleaning costs, costs arisen as a result of carriage and removal of the wastes, costs arisen as a result of death and injury of third persons and damages occurred in the private assets due to the pollution revived upon an accident occurred because of the coastal facility determined in the policy in the inland waters, territorial waters, continental shelf and exclusive economic zone of Turkey.

As Turkey is contracting state to CLC 92 and BUNKER Conventions, the owner of the ship which is subjected to these conventions is under obligation to ensure compulsory insurance coverage provided in these conventions. Hence CLC 92 states that; the owner of a ship registered in a Contracting State and carrying more than 2,000 tons of oil in bulk as cargo shall be required to maintain insurance or other financial security, such as the guarantee of a bank or a certificate delivered by an international compensation fund, in the sums fixed by applying the limits of liability prescribed in Article V, paragraph 1 to cover his liability for pollution damage under this Convention (art. VII, para.1). Besides BUNKER Convention states that; the registered owner of a ship having a gross tonnage greater than 1000 registered in a State Party shall be required to maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution, to cover the liability of the registered owner for pollution damage in an amount equal to the limits of liability under the applicable national or international limitation regime, but in all cases, not exceeding an amount calculated in accordance with the Convention on Limitation of Liability for Maritime Claims, 1976, as amended (art. VII, para.1).

On 19th of December 2013 two important regulations governing the requirement of maintaining insurance or other financial security in terms of these above mentioned two conventions have been published in the Official Gazette under the names of 1) *Regulation on Determination of the Procedures and Essentials Related to Governance and Auditing of the Certificate of International Convention on Civil Liability for Oil Pollution Damage* and 2) *Regulation on Determination of the Procedures and Essentials Related to Governance and Auditing of the Certificate of International Convention on Civil Liability for Bunker Oil Pollution Damage*.

According to 25th of November 2011 dated *Regulation on Liner Maritime Transportations*, all the liner maritime transport operators are under obligation to maintain a third party compulsory financial liability insurance (art.12). All the coverage limits and essentials of insurance will be determined by the Undersecretariat of Treasury in accordance with the remarks of the related institutions.

“Required Financial Liability Insurance Tariff and Directive on Maritime Passenger Transportation” and “Third Party Financial Liability Insurance Tariff” are prepared in order to cover that requirement in terms of maritime passenger transportation.

On 9th of May 2010, 2010/190 numbered *Board of Directors Decision on Compulsory Liability Insurances for Dangerous Goods* which provides maintenance of compulsory liability insurance for marine vehicles carrying dangerous goods has been announced. Due to the amendment on the above mentioned Board of Directors Decision which has been published in the 26.06.2013 dated and 28689 numbered Official Gazette, all the real persons are legal entities that provide internal funds determined by the Undersecretariat of Treasury are exempted from insurance obligation.

In accordance with *TCC*, bareboat charterer is under obligation to maintain compulsory insurance coverage for maritime and liability risks and informs this to the owner (art.1126).

Finally in accordance with the 04.11.2010 dated and 27759 numbered *Regulation on Insurance and Auditing of the Vessels for Maritime Claims*, all the Turkish flagged ships and ships that enter into the Turkish waters which are and up to 300 grt., are under obligation to submit the compulsory liability insurance coverage prepared in consideration with the limits stated in LLMC 76 and its 1996 Protocol to the Turkish ports (art.5).

2.2. In the event of a negative response to the question 2.1, please inform if there is any administrative rule, or any other kind of legal regulation that applies to environmental insurance policies. In this case, please describe such regulation, as well as the major features thereof.

Response is positive to the question 2.1.

2.3. Does the law provide for compulsory environmental insurance?

See 2.1 above. All the insurance applications pointed in 2.1 are providing compulsory insurance coverages.

2.3.1. If so, which would be the relevant risks, covered items and limits?

CLC 92 Insurance Coverage: The owner of a ship registered in a Contracting State and carrying more than 2,000 tons of oil in bulk as cargo shall be required to maintain insurance or other financial security, such as the guarantee of a bank or a certificate delivered by an international compensation fund, in the sums fixed by applying the limits of liability prescribed in Article V, paragraph 1 to cover his liability for pollution damage under this Convention (art. VII, para.1). The minimum limits of the coverage are shown under:

Gross Tonnage (GT) of the Ship	Limits of Insurance
0- 5.000 GT	4,51 Million SDR (Approximately 7 Million \$)
5.001 GT and over	Add 631 SDR for each additional GT to the above calculated amount
Without regards to the gross tonnage of the ship	At most 89,77 Million SDR (Approximately 136 Million \$)

BUNKER Insurance Coverage: The registered owner of a ship having a gross tonnage greater than 1000 registered in a State Party shall be required to maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution, to cover the liability of the registered owner for pollution damage in an amount equal to the limits of liability under the

applicable national or international limitation regime, but in all cases, not exceeding an amount calculated in accordance with the Convention on Limitation of Liability for Maritime Claims, 1976, as amended. The minimum limits of the coverage in respect of loss of life or personal injury are shown under:

Gross Tonnage (GT) of the Ship	Limits of Insurance
0- 2.000 GT	3,02 Million SDR
2.001 GT – 30.000 GT	Add 1208 SDR for each additional GT to the above calculated amount
30.001 GT – 70.000 GT	Add 906 SDR for each additional GT to the above calculated amount
70.000 GT and over	Add 604 SDR for each additional GT to the above calculated amount

The minimum limits of the coverage in respect of any other claims are shown under:

Gross Tonnage (GT) of the Ship	Limits of Insurance
0- 2.000 GT	1,51 Million SDR
2.001 GT – 30.000 GT	Add 604 SDR for each additional GT to the above calculated amount
30.001 GT – 70.000 GT	Add 453 SDR for each additional GT to the above calculated amount
70.000 GT and over	Add 302 SDR for each additional GT to the above calculated amount

Financial Liability Insurance Tariff and Directive on Maritime Passenger Transportation:

Insurer undertakes to cover the personal damages of passengers (death, injury, disablement and medical costs) and material damages of their luggage which may arise as a result of an accident occurred in the marine vehicle stipulated in the policy, in between the point of arrival and point of destination, including the layovers. The minimum limits of the coverage are shown under:

Limits of Guarantee (TL)					
A- Medical Costs		B-Disablement and Death		C-Financial Guarantee	
per Person	per Accident	per Person	per Accident	Per Person	Per Accident
200.000	4.000.000	200.000	4.000.000	5.000	100.000

Third Party Financial Liability Insurance Tariff: Insurer undertakes to cover death, injury or disablement of the third persons or financial loss or damages on their goods which may arise as a result of an occurrence occurred during the application of the insurance policy that may cause the liability of the assured under the applicable rules of Turkish law. Parties are free to determine the limits of the coverage.

Compulsory Liability Insurances for Dangerous Goods Tariff: Insurer undertakes to cover the direct personal and material damages of third persons which may arise as a result of an

accident occurred, without regards to the faults of the assured real persons or legal entities that cause that damage during their professional activities on the determined dangerous goods. The minimum limits of the coverage are shown under:

Limits of Guarantee for Dangerous Goods Transportation Through Sea (TL)					
A- Medical Costs		B-Disablement and Death		C-Financial Guarantee	
per Person	per Accident	per Person	per Accident	1.612.500	
268.750	8.062.500	268.750	8.062.500		

Insurance Coverage Tariff Against Maritime Claims: All the Turkish flagged ships and ships that enter into the Turkish waters which are and up to 300 grt., are under obligation to submit the protection and indemnity insurance policies prepared in consideration with the limits stated in LLMC 76 and its 1996 Protocol to the Turkish ports.

General Conditions of Financial Liability Insurance on Environment Pollution: Insurer undertakes to cover the pollution that results both the material loss, death, disablement and body injuries and all types of cleaning costs, carriage of the collected wastes and their removal caused by the activities of the facility determined in the policy. Thus general conditions of financial liability insurance on environment pollution covers guarantee of death, guarantee of disablement, guarantee of medical costs, guarantee of material loss, guarantee of cleaning and guarantee of carriage and removal of wastes up to the agreed limits of the policy.

General Conditions of Coastal Facilities' Compulsory Financial Liability Insurance on Marine Pollution: Insurer undertakes to cover guarantee of death, guarantee of disablement, guarantee of medical costs, guarantee of material loss, guarantee of carriage and removal of wastes and guarantee of cleaning up to the limits determined as the limits of liability of the coastal facility in OSRL. The minimum limits of the coverage are shown under:

Manufacture, Operation and Cargo Handling Capacity of the Facility which is Subjected to Insurance Coverage Tonnage/Year	Limits of Coastal Facilities' Compulsory Financial Liability Insurance on Marine Pollution (TL)				
	A- Medical Costs		B-Disablement and Death		C-Financial Guarantee
	per Person	per Accident	per Person	per Accident	
0-749.000	150.000	750.000	150.000	750.000	500.000
750.000-2.499.000	150.000	1.500.000	150.000	1.500.000	1.000.000
2.500.000-4.999.000	150.000	3.000.000	150.000	3.000.000	2.000.000
5.000.000 and over	150.000	6.000.000	150.000	6.000.000	4.000.000

2.4. In case of a legal requirement or regulation, when should an environmental insurance policy be obtained?

According to *Regulation on Determination of the Procedures and Essentials Related to Governance and Auditing of the Certificate of International Convention on Civil Liability for Oil Pollution Damage* (art.10) and *Regulation on Determination of the Procedures and Essentials Related to Governance and Auditing of the Certificate of International Convention on Civil Liability for Bunker Oil Pollution Damage* (art.10) related insurance policies should be electronically issued by the registered ports upon the determination of the convenience of the insurance policy or financial bank guarantee provided for each ship, in accordance with the form governed under the attachment of these regulations. Originals of these policies should be on board the ship (art.11).

2.4.1. In which step of a venture should such policy be submitted under the law?

According to *Regulation on Determination of the Procedures and Essentials Related to Governance and Auditing of the Certificate of International Convention on Civil Liability for Oil Pollution Damage* (art.12) and *Regulation on Determination of the Procedures and Essentials Related to Governance and Auditing of the Certificate of International Convention on Civil Liability for Bunker Oil Pollution Damage* (art.12) all the ships that arrive to or depart from any of the Turkish ports or arrive to or depart from a loading-discharging place in the Turkish territorial waters should submit one copy of her policy to the closest port authority that she will arrive to or pass by upon demand, through an agency resided in Turkey before entering into the Turkish territorial waters.

3. Operational methods for pollution insurance (answer is required)

3.1. Which are the pollution insurance's modalities that are offered in the market? Performance bonds or civil liability insurance?

In line with the global insurance market, insurers may operate on life or non-life business according to Turkish Insurance Regulation. Since 2008, 18 non-life insurance and 8 life insurance lines of business are regulated. There is not any line of business named as specifically "environmental liability insurance" but generally all liability insurance types are meet in the line of business named "General Liability Insurance".

3.1.1. What kinds of risks should be covered thereunder?

See 2.3.1 above.

3.2. Does the law or administrative rule define upper limits for losses or coverage?

As explained in 2.3.1 above, there are only minimum limits of coverage provided for some of the insurance applications. However, none of the related insurance applications provide maximum limits for losses or coverage.

3.2.1. Which are the criteria that should apply to limits' definition?

There are no criteria to apply to limits' definition.

3.3. Is there any difference in the legal treatment to state-owned and private ventures?

There are no differences in the legal treatment to state-owned and private ventures. As pointed above frequently owners and coastal facilities are subject to compulsory insurance coverage. "Owner" is defined as a person, without regards whether it is one of the state institutions or not, who uses his ship in order to gain benefit in water (TCC art.1081, para.1). "Coastal facilities" are also defined as facilities, without regards whether it is one of the state institutions or not, that perform activities which may result pollution of the seas through oil and other harmful substances in the coastal areas including high sea facilities and pipelines (OSRL art.3, para.g).

3.4. Is there any difference in the legal treatment to fix and mobile facilities?

There are no differences in the legal treatment to fix and mobile facilities. For the definition of “coastal facilities” in terms of OSRL, see 3.3. above.

3.5. Is there any difference in the legal treatment to underground works, mines or underground quarries?

There are no differences in the legal treatment to underground works, mines or underground quarries. For the coverage of Financial Liability Insurance on Environment Pollution in terms of legislation governing environment, see 2.1. above.

3.6. Do insurers use to insert pre-contractual provisions in the policy (pre-contractual disclosure)?

See answer 2.1 and additionally,

Article 11(1) of the Code on Insurance is used now in a way to go beyond its purpose. In fact, the mentioned provision has three requirements:

- i-* the *main* content of the insurance contract should be Insurance General Conditions,
- ii-* approval of the general conditions by the Undersecretariat and
- iii-* application of the approved general conditions in the *same* way to the insured persons subject to the *same* risk.

The policy should be issued in accordance with the general conditions approved by the Directorate of Treasury. Pre-contractual disclosures can also be inserted in convenient with the specification of the covered risk. However these disclosures should be clearly specified without inducing any mistakes and under the title of “Special Conditions” (*Code on Insurance* art.11, para.1). Hence insurer is under obligation to enlighten the insured in terms of these special conditions before the formation of the insurance agreement (TCC art. 1423). This principle of enlightening the insured before the formation of the insurance agreement is grounded by the general principle of good faith governed in art.2 of *Turkish Civil Code*. Finally *Regulation on Enlightenment in Insurance Agreements* which has been announced in the 28.10.2007 dated and 26684 numbered Official Gazette, governs the duties and obligations of the insurer on enlightenment related to the changes and developments that may affect the insured, assured or beneficiary during the continuance of the insurance agreement on the subject, guarantees and other specializations of that agreement (art.1). According to the above pointed regulation, insurer is under obligation to prove that the minimum enlightenment has been done (art.5), through a registered letter, fax, telegraph, electronic mail, secure electronic signature or such devices deemed appropriate by the Directorate of Treasury (art. 11, para.1).

Determination of the Undersecretariat of Treasury as an approval authority, and the preparation of respective general condition by each of the insurer will also mean the provision of product diversity. In fact, the use of the Undersecretariat of Treasury as an approval authority is a controlled system of free competition from which the insured get benefits. However, the insurance companies in Turkey do not choose this procedure and do not prepare the Insurance General Conditions by themselves.

The insurer appears to be the party that unilaterally creates the contract content by adding the Insurance General Conditions (which is the main backbone of the contract) prepared by the Undersecretariat of Treasury to the contract. Since the freedom of contract, in particular the freedom to determine the content of the contract, is unilaterally enjoyed by the insurer, mandatory provisions are included in the Turkish Commercial Code to protect the weak party of this contractual relationship.

In the Doctrine³, there is a view that the insurance contract is a contract containing a pre-formulated "standard conditions" in the frame of the Article 20 of the Turkish Code of Obligations.

3.6.1. Which are the most usual ones?

See answer 2.1. Additionally,

The insurance companies in Turkey do not choose to prepare their own General Conditions and Terms. Although in Article 11(1) of Code on Insurance, the clear wording of the provision is stated that the *main contents* should be the Insurance General Conditions prepared by the insurer and approved by the Undersecretariat, the legislator has made it possible to open the general conditions (controlled *via approving*), into negotiations and change them with the "special conditions", if the business characteristics necessitates. In other words, the terms of the general conditions are reversible, with the condition of not being contrary to the mandatory law.

Although the supervision power given to the Undersecretariat of Treasury in terms of contract law is limited with "approval"⁴; the Undersecretariat of Treasury, itself, actually became a drafter and an approver since the insurance companies do not prepare individual Insurance General Conditions. Both the "approval" and additionally the "regulator", which it created by itself, actually leads to an excessive supervision over the "general conditions of insurance", going beyond the vision and will of the Code on Insurance.

The contents of the reinsurance contract by the foreign reinsurance company, are inevitably presented without making negotiation to the insured under the term "special condition" in the insurance contract. In today's insurance practice, insurance coverage is not provided unless reinsurance is provided, i.e. the insurance company gets the coverage first, and then provides the coverage. For this reason, the related reinsurance contract, willingly or not, affects the insurance contract in terms of the content.

Special conditions of the insurance agreement differ from one to another. However insurer is under obligation to inform the communication information of itself and its agency, general warnings related to the insurance agreements, coverage given by the agreement, excluded risks by the insurance agreement and additional values that may be covered through an additional agreement, general information on the compensation and rules governing the payment of compensation and finally demands of complaint and information and information on the arbitration membership (Regulation on Enlightenment in Insurance Agreements).

4. Coverage under pollution insurance (answer is required)

³ Mehmet Bahtiyar, 'General Conditions of Insurance Policy', in: All my Articles Volume I, 151 (Beta, 2008) (in Turkish); Memis, Tekin, *Judiciary Supervision of Conditions of Insurance Contracts*, (XII Levha 2016) (in Turkish); Can, Mertol, *General View to Insurance General Conditions Regarding Professional Liability Insurance*, (Banka ve Ticaret Hukuku Enstitüsü, No:431) (in Turkish)

Yazicioglu, Emine, *Hull Insurance Contract* (Beta,2003) (in Turkish), 40; Mustafa Ceker *Insurance Law under Turkish Commercial Code No:6102*, 7-8; (Karahana 2011) (in Turkish); Mehmet Ozdamar, *Pre-Contractual Information Duty of Insurer*, 131 (Yetkin, 2009) (in Turkish); Unan, Samim, *The Effects of Consumer Protection Code Dated 2013 on Insurance Contracts*, in: Internationale Symposien zu aktuellen Entwicklungen im turkischen und deutschen Aktiengesellschafts-und Kapitalmarktrecht sowie Versicherungsrecht 19-20 Juni 2014, (in Turkish), 173; Atamer, Yesim, *General Conditions under New Turkish Code of Obligations*, in: Symposium on General Condition in Turkish Law 8 April 2011 (Banka ve Ticaret Hukuku Enstitüsü Yayinlari, No.467) (in Turkish); *contra* Yesilova Aras, *Using General Conditions in Insurance Contracts*, in: Symposium on General Conditions 17 April 2015, 466 (Izmir Barosu Dergisi, 2015) (in Turkish).

⁴ See Article 11 Code on Insurance.

4.1. Which are the major covered risks relating to civil liability arising from pollution?

Medical costs, financial costs (including cleaning costs, carriage and removal of wastes etc.), death or disablement of third persons are frequently covered risks relating to civil liability arising from pollution. See 2.3.1 above for each type of insurance covering environmental pollution damages.

4.2. Which are the major covered guarantees for events arising from pollution?

Insurer undertakes to cover guarantee of death, guarantee of disablement, guarantee of medical costs, guarantee of material loss, guarantee of carriage and removal of wastes and guarantee of cleaning are the major covered guarantees for events arising from pollution. See 2.3.1 above for each type of insurance covering environmental pollution damages.

4.3. Which are the major covered operational risks arising from pollution?

See 4.1 above.

4.4. Does the insurance cover fines?

All the costs and probable fines that arise from criminal investigation are out of the insurance coverage (General Conditions of Coastal Facilities' Compulsory Financial Liability Insurance on Marine Pollution B.4; General Conditions of Financial Liability Insurance on Environment Pollution A.7; Compulsory Liability Insurances for Dangerous Goods Tariff B.2; Third Party Financial Liability Insurance Tariff art.9; Financial Liability Insurance Tariff and Directive on Maritime Passenger Transportation B.4).

4.5. Is there coverage for individual moral damages, being understood as such any physical or psychological suffering experienced by the victim and/or injury against his/her honor or personality?

Individual moral damages are excluded from the coverage of specific insurance policies (General Conditions of Coastal Facilities' Compulsory Financial Liability Insurance on Marine Pollution A.5; unless otherwise agreed by the parties of insurance agreement, General Conditions of Financial Liability Insurance on Environment Pollution A.6; Compulsory Liability Insurances for Dangerous Goods Tariff A.4). Rest of the insurance general conditions examined above in 2.3.1 do not clearly exclude the coverage of moral damage in the insurances that they provide.

4.6. Is there coverage for collective moral damages, being understood as such any moral injury undergone by a group of certain persons who are interconnected by a fundamental legal relationship or by a same event experienced by all of them, or any injury to non-determinable trans-individual rights?

The general conditions of some of the above mentioned (4.5) specific insurance policies exclude the coverage of moral damages without classifying them whether they are understood as such any physical or psychological suffering experienced by the victim and/or injury against his/her honor or personality or they are understood as such any moral injury undergone by a group of certain persons who are interconnected by a fundamental legal relationship or by a same event experienced by all of them, or any injury to non-determinable trans-individual rights.

4.7. Is there coverage for punitive damages, being understood as such any penalty levied on the agent of the illicit conduct, in addition to the compensation of damages themselves?

See 4.4 above. All the costs and probable fines that arise from criminal investigation are out of the insurance coverage (General Conditions of Coastal Facilities' Compulsory Financial Liability Insurance on Marine Pollution B.4; General Conditions of Financial Liability Insurance on

Environment Pollution A.7; Compulsory Liability Insurances for Dangerous Goods Tariff B.2; Third Party Financial Liability Insurance Tariff art.9; Financial Liability Insurance Tariff and Directive on Maritime Passenger Transportation B.4).

5. Beneficiaries (answer is required)

5.1. Who is entitled to be beneficiary of losses recoverable under pollution insurance? Any individuals, legal entities, state-owned or private institutions, collectivities?

All the beneficiaries whose losses recoverable under pollution insurance are listed in accordance with the legislation governing the compulsory application of the specific insurance coverage:

CLC 92 Insurance Coverage: Person means any individual or partnership or any public or private body, whether corporate or not, including a state or any of its constituent subdivisions (CLC 92 art. I, para.2).

BUNKER Insurance Coverage: Person means any individual or partnership or any public or private body, whether corporate or not, including a state or any of its constituent subdivisions (BUNKER Convention art. 1, para.2).

Financial Liability Insurance Tariff and Directive on Maritime Passenger Transportation: Damaged person means passenger who suffers damage that requires compensation demand or third person that does not travel in the insured marine vehicle however damaged because of the accident or person who is destitute of support of the dead (A.2).

Third Party Financial Liability Insurance Tariff: All damaged third persons (art.1).

Compulsory Liability Insurances for Dangerous Goods Tariff: All damaged third persons.

Insurance Coverage Tariff Against Maritime Claims: Owners of the below placed maritime claims which are determined in art.2 of LLMC 76:

- (a) claims in respect of loss of life or personal injury or loss of or damage to property (including damage to harbour works, basins and waterways and aids to navigation), occurring on board or in direct connexion with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;
- (b) claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;
- (c) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connexion with the operation of the ship or salvage operations;
- (d) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;
- (e) claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship;
- (f) claims of a person other than the person liable in respect of measures taken in order to avert or minimize loss for which the person liable may limit his liability in accordance with this Convention, and further loss caused by such measures.

General Conditions of Financial Liability Insurance on Environment Pollution: Damaged person means person who suffers damage that requires compensation demand or who is destitute of support of the dead (A.3)

General Conditions of Coastal Facilities' Compulsory Financial Liability Insurance on Marine Pollution: Owner of demand means person who suffers damage that requires compensation demand or who is destitute of support of the dead (A.2). Owner of demand in terms of General Conditions of Coastal Facilities' Compulsory Financial Liability Insurance on Marine Pollution can be also evaluated under OSRL application which means all persons (real persons and legal entities) who has right to demand compensation.].

6. Market status (answer is required)

6.1. What is the percentage of participation of environmental insurance at the insurance market in its whole?

The answers below are given according to published statistics of Insurance Association of Turkey (www.tsb.org.tr).

According to updated data between 1.1.2016- 31.01.2017, the total market share of "General Liability" line of business is 2,70 %. But the participation of environmental insurance at this line of business is not statistically investigated.

An other official statistic shows that between the dates below;

	NUMBER OF POLICY UNDER SUB-LINE OF BUSINESS <i>named</i> "ENVIRONMENTAL LIABILITY" INSURANCE	NUMBER OF POLICY UNDER LINE OF BUSINESS <i>named</i> "GENERAL LIABILITY INSURANCE"
1.1.2017 and 30.4.2017	7 policy	1.199.105 policy
1.1.2016 and 30.11.2016	27 policy	3.415.070 policy
1.1.2015 and 31.12.2015	24 policy	3.456.78 policy
1.1.2014 and 31.12.2014	17 policy	3.381.475 policy
1.1.2013 and 31.12.2013	not researched	1087.157 policy

There is no official statistics for the participation of environmental insurance at the insurance market in its whole. However the related analysis can be carried out through the numbers of specific guarantees which are related to environmental insurance examined in this report as below:

According to the updated official statistics hold in between 01.01.2017 and 31.03.2017; "6" sub-guarantee coverage for "Financial Liability Insurance on Environment Pollution", "15" sub-guarantee coverage for "Financial Liability Insurance on Maritime Passenger Transportation", "218" sub-guarantee coverage for "Coastal Facilities' Compulsory Financial Liability Insurance on Marine Pollution", "17.731" sub-guarantee coverage for "Compulsory Liability Insurances for Dangerous Goods" and "675.876" sub-guarantee coverage for "Third Party Financial Liability Insurance" are provided by the non-life insurance firms. Total of the sub-guarantee coverage provided by the non-life insurance firms is "28.518.115".

6.1.1 As regards the figures thereof, what is the yearly participation of premiums collected under environmental insurance?

	Premiums Totally for “ <i>General Liability Insurance</i> ” Line of Business	Premiums for “ <i>Environmental Liability Insurance</i> ” Sub-Line of Business
2016	816.065.370 Turkish Lira	Not researched
2015	758.010.417 Turkish Lira	Not researched
2014	634.4017.542 Turkish Lira	Not researched

There is no official statistics for the yearly participation of premiums collected under environmental insurance. However the related analysis can be carried out through the numbers of insurance premiums collected for insurance of water vehicles, water vehicles liability and general liability insurance coverage as below:

According to the updated official statistics hold in between 01.01.2017 and 31.03.2017; premiums in the amount of 61.956.036 TL have been collected for the insurance coverage of water vehicles which has the apportion of 0,58% among the premiums collected in the whole insurance market.

According to updated official statistics hold in between 01.01.2017 and 31.03.2017; premiums in the amount of 13.850.485 TL have been collected for the insurance coverage of water vehicles liability which has the apportion of 0,13% among the premiums collected in the whole insurance market.

Finally, according to updated official statistics hold in between 01.01.2017 and 31.03.2017; premiums in the amount of 285.957.655 TL have been collected for the insurance coverage of general liability which has the apportion of 2,66% among the premiums collected in the whole insurance market.

6.2. Which are the sectors of economic activity that use to obtain environmental insurance?

Insurance firms, banks, insurance agencies and brokers are the mainly used people to obtain environmental insurance. Hence according to updated official statistics hold in between 01.01.2017 and 31.03.2017; all the coverage for Financial Liability Insurance on Environment Pollution is obtained by the banks.

Owners and coastal facilities are the main people who use insurance firms, banks, insurance agencies and brokers in order to obtain environmental insurance. However for the sectors and persons who are not under obligation to act a compulsory liability insurance contract for environmental risk, there is not any statistics published on the web-site of Insurance Association of Turkey (www.tsb.org.tr).

6.3. During the last 5 (five) years, what is the sum of losses paid by virtue of environmental damages?

There is no official information on the issue.

6.3.1. What percentage of the aforesaid losses was covered under insurance?

There is no official information on the issue.

7. Academic development (answer is required)

7.1 Are there research institutes focused on the study of environmental insurance? Please identify them.

The following research and application centers are focused on the study of environmental studies; Ege University Centre for Environmental Studies, Anadolu University Centre for Applied Environmental Research, Ankara University Environmental Problems Research and Application Center, On Dokuz Mayıs University Environmental Problems Research and Application Center, Mugla Sıtkı Kocman University Environmental Problems Research and Application Center, Cumhuriyet University Environmental Problems Research Center, Ataturk University Environmental Problems Research Center, Igdir University Environmental Problems Research and Application Center, Marmara University Environmental Problems Research and Application Center, Celal Bayar University Environmental Problems Research and Application Center, Bulent Ecevit University Environmental Problems Research and Application Center, Giresun University Environmental Problems and Clean Production Research and Application Center, Hacettepe University Environmental Research and Application Center, Center of Social Labour and Social Security Training Research, Turkish Environmental Protection Foundation and Turkish Environmental Education Foundation.

7.2 Are there academic and scientific works produced in the fields of law, economy, environment or other similar area, that specialize in environmental insurance? Please indicate some reference legal manuscripts and books, and the main authors thereof.

Hereunder valuable publications written that specialize in environmental insurance are briefly stated:

Abdullahzade, Cavid: Gemilerden Kaynaklanan Petrol Kirliliği: Türk Hukukundaki Son Gelişmelerin Değerlendirilmesi, Ankara Üniversitesi Hukuk Fakültesi Dergisi 2009, Vol: 58, No.: 4, p.693.

Abecassis, D.W. (trans: Atamer, Yesim): Deniz Kirlenmesi "The Patmos", Denizati Dergisi 1988, Year:', No: 22, p. 20.

Acar, Serdar: Kirlenme Zararlarına İlişkin Tazminat (Sorumluluk ve Sigorta) Sistemi, Denizcilik Dergisi 2009, Year:10, No:45, p.50.

Atamer, Kerim: Yargıtay Kararları Işığında Deniz Ticareti ve Deniz Sigortası Hukukund Güncel Sorunlar ve Gelişmeler, XXIII. Ticaret Hukuku ve Yargıtay Kararları Sempozyumu (12.06.2009), Ankara 2009, p. 165.

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Bilgişin, İlkey: Uygulama Açısından Gemilerin Denizi Kirletmesi Dolayısıyla Donatanların Sorumluluğu, Sorumluluk ile Sigorta Hukuku ve Uygulama Açısından Türkiye'de Deniz Kazaları Sempozyumu (13-15.10.1982), Ankara 1983, pp. 321-334.

Günay, Barış: The US and International Compensations Regimes for Vessel Source Oil Pollution: A Comparative Study, Prof. Dr. Turgut Kalpsüz'e Armağan, Ankara 2003, p. 391.

Kara, Hacı: Legislation Regarding Pollution From Ships, Maritime Advocate 2003, Vol:24, p. 37.

Kender, Rayegan: Uluslararası Deniz Hukukunda Kirlenme Zararlarından Doğan Sorumluluk için Mecburi Sigorta, Milletlerarası Hukuk ve Milletlerarası Özel Hukuk Bülteni, Year:2, No:2, p.14.

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Özçayır, Oya: Limitation of Liability Problems in Cases of Oil Pollution, *Maritime Studies*, No.110, January/February 2000, p.1.

Soyer, Barış: Oil Pollution Damage for Economic Loss, *Journal of International Maritime Law* 2003, Vol:9, No.:3, p.224.

Soyer, Barış: Compensation for Pollution Damage Resulting from Exploration for and Exploitation of Seabed Mineral Resources, Chapter 4, in Soyer, Barış / Tettenborn, Andrew (eds.), *Pollution at Sea: Law and Liability*, London 2012.

Unan, Samim: Liability of the Turkish Administration and civil liability of the Classification Societies acting on behalf of the Turkish Administration for damages caused to the shipowner or to third parties – Seminar on Comparative and Community Law regarding liability of Classification Societies, Istanbul 2004.

Unan, Samim: Some Aspects of the New Turkish Legislative Work Related to Private Insurance, *Kompatibilität des türkischen und europäischen Wirtschaftsrechts – Der neue türkische HGB-Entwurf und benachbarte Rechtgebiete*, Mohr Siebeck, 2009, p. 130 f.f.

Unan, Samim: New trends in Turkish Insurance Law, *International In-House Counsels Journal-Insurance Sector 2010 edition* , Pinsent Masons, p.103 f.f.

Unan, Samim: A Turkish Insurer's precontractual information duty, *Australian Insurance Law Journal*, Vol.23 Number 1 May 2012, p. 97 f.f.

Unan, Samim: Some private international law problems relating to insurance law in Turkish practice- *Revija za pravo osiguranja/insurance law review*, Year XI, 4/2012, p.60 vd.

Unan, Samim: Insurance Precontractual Duty to Inform and Warn/Advise – Insurer's Precontractual Information Duty, 2013, p.9 f.f.

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Yazıcıoğlu, Emine: Tekne Sigortasında Geminin Elverişsizliğinin Sigorta Himayesine Etkisi, *Sigorta Hukuku Dergisi*, pp. 30-35, 2003.

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