



VITSAN

MÜMESSİLLİK VE MÜŞAVİRLİK A.Ş.

P & I CLUB CORRESPONDENTS

Subject: LOU request from Correspondents for marine pollution matters in Turkiye

CIRCULAR TO ALL P&I CLUBS

Dear Sirs,

Marine Pollution matters in Turkiye hold significant importance, as the Authorities impose substantial penalties depending on the pollution categories.

As a P&I Correspondent in Turkiye, we are closely following the developments and circulating updates to our principals regarding pollution matters as well as the tariffs once any amendments have been made to the relevant legislation.

In Turkiye, 3 different authorities have been authorized to enforce environmental legislation, which encompasses patrolling the seas within their jurisdiction and imposing penalties against vessels that cause pollution in breach of the applicable legislation. Those authorities are, the Environmental Agencies, Harbour Masters, and Municipalities.

Pursuant to the relevant environmental legislation, Vessels/Owners that cause marine pollution are subject to pollution penalties and/or administrative penalties. The Authorities can release the Vessels once a Club LOU guaranteeing that the payment would be made within 30 days is submitted. In essence, the requested LOU wording by the authorities is a payment promise instead of a standard LOU.

If an LOU is issued to release the vessel, the authorities monitor the payment deadline closely and treat the matter very seriously. Having said this, the Owners can obtain a 25% deduction if the penalty is paid within 30 days from issuance date.

Although each of the 3 authorities are enforcing the same environmental code, in practice, the procedures to release the Vessel may vary depending on the individual decision of the authorized authority at each port. For instance, we have encountered situations where, despite having a LOU issued by the club, the authorities have requested a second LOU from correspondent as a guarantee to make the payment if the Club/Owners fail to pay the penalty amount within 30 days.

The reason why the authorities have been requesting a second LOU from the Correspondent is that due to issues with intermediary banks, the remittance to Turkiye could be delayed and the penalty amount could arrive in the account of the authorities after the 30 days deadline, which aggravates the authorities resulting in the threats to remove the Clubs from the list of credible Clubs in Turkiye.

VM-FRM087/00-05/18

Head office : Bilezik Sokak No. 4 FINDIKLI, 34427, ISTANBUL/TURKEY

P: (90 212) 252 06 00 (8lines) F: (90 212) 249 44 34 www.vitsan.com.tr vitsan@vitsan.com.tr

VİTSAN

MÜMESSİLLİK VE MÜŞAVİRLİK A.Ş.

The other reason why the authorities are seeking a second LOU from the Correspondent is to recover the penalty amount from a local company in Turkiye instead of making a claim and commencing a court action against a company abroad. Furthermore, the authorities threaten to suspend the services of the Correspondents when there is a delay in payment by the Club or its members.

The request for a second LOU from the Correspondents by the Authorities is not a legal requirement, rather the Authorities' individual decision in order to procure that they receive the payment within 30 days.

In view of the above, we consider that the quickest and easiest way to release the Vessel in pollution matters in Turkiye is to make the payment as soon as possible.

If the payment cannot be made quickly and the Vessel has to sail as soon as possible on her voyage, then a LOU needs to be given to the Authorities in the usual way, but requesting a second LOU from the Correspondent guaranteeing payment by the Club within 30 days may cause unreasonable delay because;

- i) based on the legislation, the correspondents are not the branch offices/agents of any P&I Club, and therefore, the LOU request from the Correspondents lacks a legal basis, and
- ii) the penalty amounts are quite substantial, making it difficult for the correspondents to afford them.

We hear that some relevant parties are considering this request as a common and legal practice in Turkiye, but as stated above, this is an individual request, and there are still other authorities that are not requesting a second LOU from the Correspondents. Therefore, developments in each case may differ, subject to the parties involved and how they deal with the matter.

We are always at your entire disposal, and needless to say that we are giving our best service to assist you and your Members. The above-mentioned request from the Correspondents by the Authorities is not a legal practice, for which we kindly ask for your understanding and support in case a second LOU request is made by any of the authorities. Alternatively, in the cases we are involved we are trying to convince the relevant authority to accept a cover letter in a different wording instead of requesting a second LOU from the Correspondents which works on some occasions but not in others.

Should you have any queries please do not hesitate to contact us.

Submitted for your kind info.

Please contact us if you have any further queries and if you / your members need our assistance, we are always at your disposal.

Our Emergency phone number is: +90 530 129 12 12

Our general e-mail address is: vitsan@vitsan.com.tr

Best regards,

VITSAN MUMESSİLLİK VE MUSAVİRLİK AS, İSTANBUL