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Issue Brief

The Changing Legal Landscape for LNG Shipping Expansion

- A Brief on Emerging Climate, Human Rights, and Financial Frameworks for Shipowners

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This brief analyzes the growing legal and financial risks facing Japan's major shipping companies, including Mitsui O.S.K. Lines (MOL) and Nippon Yusen Kabushiki Kaisha (NYK), as they expand their LNG carrier fleets. It draws from SFOC's report "No Room for More – Climate and Financial Risks of Expanding LNG Shipping Fleets" (May 13, 2025), providing legal insights into corporate accountability, litigation risks, and evolving climate and human rights law.

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1. Introduction

Amid evolving international climate and human rights law as well as a global rise in corporate litigation, this brief highlights the increasing legal risks facing Japan's major shipping companies, such as Mitsui O.S.K. Lines (MOL) and Nippon Yusen Kabushiki Kaisha (NYK), as they expand their liquefied natural gas (LNG) carrier fleets.

This document serves as a supplementary brief to SFOC's report "No Room for More – Climate and Financial Risks of Expanding LNG Shipping Fleets" (published May 13, 2025).[1] It delves deeper into the climate and sustainability inconsistencies associated with LNG fleet expansion and the resulting risks of litigation and regulation.

The recent appellate court decision in Lliuya v. RWE AG[2] clearly demonstrated that even when climate-related damages occur on the other side of the globe, companies that emit significant amounts of CO_2 may still be held legally responsible. If the damage is of a legally compensable scale, courts may impose liability based on the company's proportionate contribution to global greenhouse gas emissions, regardless of when or where the emissions occurred.

To date, 68 lawsuits seeking monetary damages for climate change-related impacts have been filed. Approximately 54% of these have targeted fossil fuel companies such as ExxonMobil, Shell, Chevron, ConocoPhillips, and BP. Regardless of the outcomes of these cases, we have entered a new era of corporate accountability where major polluting entities are increasingly unlikely to continue evading their legal responsibilities for the environmental harm they cause.

2. Background: Key Points from the No Room for More Report

- The global LNG shipping sector has undergone unprecedented growth, with fleet capacity nearly tripling over the past decade.
- This rapid expansion is misaligned with critical climate goals. The current global LNG fleet

1 https://forourclimate.org/research/581

2 https://www.climatecasechart.com/document/luciano-lliuya-v-rwe-ag_dd33

enables approximately 12.7 billion tons of CO_2 annually, which clearly contradicts the 1.5°C target and poses a significant threat to the climate.

- The number of speculative newbuild orders – vessels ordered without long-term charter contracts – has surged to unprecedented levels. This trend signals serious risks for shipping companies, including market oversupply and exposure to stranded assets[3]. As a result, both private and public financial institutions face heightened financial and climate-related risks.

3. Key Legal Risks Facing LNG Shipping Fleets

3.1. Growing Climate Litigation Against Corporations

In recent years, we have observed a global increase in climate-related lawsuits, with a noticeable rise in strategic litigation directly targeting corporations. Legal risks are specifically expanding in the following areas:

- Greenwashing (false or misleading environmental claims)
- Polluter Pays Principle (PPP)-based claims for damages
- Structural litigation (also called framework litigation) that questions the inadequacy of corporate policies
- Lawsuits related to "transition risks", which challenge the failure of corporate leadership to fulfill their duty of care in managing climate-related risks

Furthermore, climate litigation is increasingly targeting infrastructure providers that enable fossil fuel expansion. Environmental groups have challenged pipeline projects not for their direct emissions, but because the infrastructure enables access to new sources of fossil fuels.[4]

This trend creates potential legal risk for LNG shipping companies like MOL and NYK. Like pipelines, LNG carriers are floating infrastructure that enables fossil fuel transport and expansion.

3 Stranded asset risk refers to the risk of a significant decline in asset value due to changes in social or market conditions. In this context, it specifically indicates the possibility that fossil fuel assets may become unusable and drastically lose their value as a result of tighter regulations and market shifts stemming from climate change mitigation efforts.

4 https://jp.reuters.com/article/environmental-groups-sue-us-to-stop-deepwater-oil-export-facility-idUSKBN2TY1US/

Each new ship built creates transport capacity that makes LNG projects financially viable, potentially exposing shipping companies to litigation challenging their role as enablers of fossil fuel infrastructure rather than passive transporters.

3.2. Legal Implications of Reputational and ESG Risks in LNG-Related Projects

3.2.1. The litigation risk for shipowning companies is increasing even within Japan.

In the Mozambique LNG project, several entities, including international NGOs and the news outlet Politico, have reported serious human rights violations such as land grabbing, forced displacement, violence by security forces, massacres, and sexual violence, as well as severe environmental destruction and pollution of local ecosystems [5]. A report by the Centro para Democracia e Direitos Humanos (CDD) states that as of February 2025, at least 348 civilian deaths have been confirmed.[6]

If shipowners continue to transport LNG despite knowing or having reasonable grounds to know about these violations, there is a risk of reputational and ESG risks materializing due to increased criticism from media, NGOs and the broader public within Japan.

3.3. Obligations of States under the ITLOS Advisory Opinion and Implications for Private Companies

3.3.1. Advisory Opinion of the International Tribunal for the Law of the Sea (ITLOS)

- Greenhouse gas (GHG) emissions fall under the definition of "pollution of the marine environment" under UNCLOS.
- State Parties are under a legal obligation to protect the marine environment from the impacts of climate change and must take all necessary measures to prevent, control, and reduce

5 It is reported that numerous Japanese public institutions and companies are involved in this project, including the Japan Bank for International Cooperation (JBIC), the Japan Organization for Metals and Energy Security (JOGMEC), Nippon Export and Investment Insurance (NEXI), Mitsui & Co., Chiyoda Corporation, Tokyo Gas, Tohoku Electric Power, JERA, MUFG Bank, Mizuho Bank, Sumitomo Mitsui Banking Corporation, Sumitomo Mitsui Trust Bank, Nippon Life Insurance Company, Crédit Agricole Tokyo Branch, Société Générale Tokyo Branch, SBI Shinsei Bank, and Standard Chartered Bank Tokyo Branch.
In addition, NYK Line (4 vessels), MOL (5 vessels), and Kawasaki Kisen Kaisha "K" Line (4 vessels) are reportedly involved in the project through the ownership of a total of 13 newly built LNG carriers.

6 https://cddmoz.org/wp-content/uploads/2025/02/Human-Rights-Violations-During-the-Post-Election-Crisis-in-Mozambique.pdf anthropogenic GHG emissions. This obligation constitutes a particularly strict form of due diligence, which includes the duty to regulate both public authorities and private entities.

- States are obligated to prevent "transboundary harm" resulting from GHG emissions originating within their jurisdiction or control. To fulfill this obligation, they are required to exercise strict due diligence consistent with the international objective of limiting the global average temperature increase to 1.5°C above pre-industrial levels.
- States must also monitor climate risks, conduct environmental impact assessments, and publish reports on activities that may cause significant pollution or harmful changes due to GHG emissions.

3.3.1. Implications

The ITLOS advisory opinion reconfirms that Parties, including Japan, have a duty to oversee and regulate private companies within their jurisdiction, this would include shipowning companies.

Although advisory opinions are not legally binding, the ITLOS opinion is considered highly influential. It reinforces and clarifies existing obligations and establishes a strong legal precedent. As such, it is likely to be cited as credible evidence in litigation holding States and companies accountable for climate-related harm to the marine environment.

This opinion may therefore strengthen the legal basis for climate litigation brought against companies based on State obligations, increasing the risk of climate lawsuits targeting corporate actors.

As a result, new regulations or the tightening of existing regulations on sectors such as shipping are expected in various countries.

Given Japan's position as a major owner of LNG carriers, the Japanese government falls within the scope of obligations clarified by the ITLOS opinion. Consequently, there is a possibility that Japan will introduce new or more stringent oversight and regulatory measures concerning GHG emissions by Japanese shipping companies. Should such regulatory or reporting requirements be implemented, they could have a significant impact on the operations of Japanese maritime firms.

3.4. Litigation Risks Related to Sustainable Finance Frameworks (e.g., the EU Taxonomy)

In Europe, a coalition of NGOs has filed a lawsuit against the European[7] Commission, arguing that the EU Taxonomy's classification of LNG-powered vessels as "environmentally sustainable" is unjustified. The NGOs claim that the criteria are unlawful because they fail to account for methane emissions throughout the full lifecycle of LNG-fueled vessels. They also argue that the taxonomy neglects the risks of carbon lock-in and stranded assets. More than 35,000 citizens have signed a petition in support of this legal action.

The EU Taxonomy is intended to channel billions of euros in private finance toward genuinely sustainable activities. This lawsuit highlights the legal risk that taxonomy standards may mislead investors regarding the environmental sustainability of certain activities.

Although the case targets the European Commission, it raises broader concerns about the legal validity of classifying LNG transport investments as "green" or "environmentally sustainable". In the future, lawsuits could be brought directly against companies or financial institutions for allegedly misleading investors or promoting environmentally harmful activities under the guise of sustainability.

Depending on its outcome, this lawsuit may also have implications for the development of sustainable finance taxonomies in other jurisdictions, including Japan.

3.5. Stranded Asset Risks and Financial Liability

Our report, *No Room for More: Why LNG Carriers Are a Climate and Financial Risk*, highlights that the speculative ordering of LNG carriers combined with accelerating energy transition trends is intensifying the risk of market oversupply and stranded assets in the LNG shipping sector.

As seen in recent developments in climate litigation worldwide, there is an increased interest in "transition risks". These transition risks refer to the possibility that corporations and their executives may face legal claims over how they manage climate-related financial risks.

Against this backdrop, as raised in the aforementioned lawsuit concerning the EU Taxonomy, failure to properly account for stranded asset risks when making LNG-related investment decisions carries potential legal risks. Financial institutions, including banks heavily involved in financing LNG shipping, also face exposure to stranded asset risk.[8] As a result, we can expect

7 https://www.wwf.eu/?9984966/EU-Taxonomy-Environmental-groups-take-EU-to-court-over-green-gas-label

8 https://www.shippingandoceans.com/post/usd-48-billion-at-risk-of-being-written-off-as-gas-tanker-orders-soar-by-300-in-five-years increased scrutiny in the form of tighter lending conditions and possible withdrawal of financial support for fossil fuel infrastructure projects, including LNG transport.

4. Recommendations for Risk Mitigation

Based on strategic recommendations by SFOC, Japanese shipping companies can reduce their legal exposure by taking the following steps:

1. Strengthening Emissions Reporting

It is essential to implement comprehensive emissions disclosures that include lifecycle emissions associated with LNG transport, indirect emissions, and so-called enabled emissions. Doing so can address criticism around unclear accountability and serve as a countermeasure to allegations of greenwashing.

2. Developing Effective Decarbonization Transition Plans for Fleets

Companies should create detailed transition plans aligned with scientific climate goals, including clear milestones (e.g., for 2025-2035).

These efforts not only respond directly to concerns such as misalignment with climate goals, market oversupply, and stranded asset risks, but also demonstrate a proactive approach to duty of care, a concept increasingly emphasized in climate litigation.

3. Diversifying Investment

Shipping companies should pursue partnerships and diversified investment strategies aimed at shifting away from fossil fuel transport, particularly toward low-carbon alternatives. This would help reduce long-term legal and financial exposure as the fossil fuel market contracts.

5. Conclusion

The expansion of LNG carrier fleets is no longer merely a business decision. Given the current state of climate change and evolving regulatory frameworks, such investments carry significant legal and financial risks.

The rise in global climate litigation, the clarification of State obligations under international law, the resulting tightening of corporate regulation, and the increasing scrutiny of sustainable finance frameworks all point to a growing risk of legal action against companies involved in large-scale fossil fuel emissions. This makes Japanese shipping companies, key players in this field, especially vulnerable.

To navigate this shifting risk landscape, proactive and preventive measures are essential: clarifying emissions accountability, establishing clear transition plans, and shifting toward diversified, low-carbon investments.

Companies must recognize that continued investment in LNG carriers stands in clear contradiction to global climate targets and may even trigger financial risks.