Protocol to HNS Convention Adopted

Protocol to bring into effect liability and compensation regime for hazardous and noxious substances carried by sea adopted at IMO conference

A Protocol to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (HNS Convention), aimed at bringing that Convention into effect, has been adopted by consensus by a Diplomatic Conference convened by IMO at its Headquarters in London.

The Protocol of 2010 to the HNS Convention addresses practical problems that have prevented many States from ratifying the original Convention, which, despite being adopted in 1996, has, to date, only 14 ratifications and is some way from meeting the conditions for its entry into force.

Speaking at the close of the successful Conference, IMO Secretary-General Effimios E. Mitropoulos expressed his satisfaction with the outcome and urged Governments to now turn their attention to the task of bringing the Protocol into force at the earliest possible date and, thereafter, to promoting the uniform and effective implementation of the HNS international regime.

Limits of liability under the 2010 Protocol

Under the 2010 Protocol, if damage is caused by bulk HNS, compensation would first be sought from the shipowner, up to a maximum limit of 100 million Special Drawing Rights (SDR) (US$150 million approx.).

Where damage is caused by packaged HNS, or by both bulk HNS and packaged HNS, the maximum liability for the shipowner is 115 million SDR (US$172.5 million approx.)

Once this limit is reached, compensation would be paid from the second tier, the HNS Fund, up to a maximum of 250 million SDR (US$375 million approx.) (including compensation paid under the first tier). The Fund will have an Assembly, consisting of all States Parties to the Convention and Protocol, and a dedicated secretariat. The Assembly will normally meet once a year.

Entry into force criteria for the Protocol

The Conference agreed that the Protocol should enter into force eighteen months after the date on which the following conditions are fulfilled:

(a) at least twelve States, including four States each with not less than 2 million units of gross tonnage, have expressed their consent to be bound by it; and

(b) the Secretary-General has received information in accordance with article 20, paragraphs 4 and 6, that those persons in such States who would be liable to contribute pursuant to article 15, paragraphs 1(a) and (c), of the Convention, as amended by this Protocol, have received during the preceding calendar year a total quantity of at least 40 million tonnes of cargo contributing to the general account.

Resolutions adopted by the conference

The conference also adopted four resolutions:

Resolution 1: Setting up the HNS fund;
Resolution 2: Promotion of technical co-operation and assistance;
Resolution 3: Avoidance of a situation in which two conflicting treaty regimes are operational; and
Resolution 4: Implementation of the 2010 HNS Protocol

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Further information about the HNS Convention and Protocol is available on the dedicated IMO webpage at www.imo.org