

Diplomatic Conference Adopted 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

An International Conference on the revision of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (HNS-1996 Convention) was held at IMO Headquarters in London from 26 to 30 April.

The main purpose of the Conference was to adopt an instrument which would establish conditions for a rapid entry into force of the international regime of liability and compensation for damage involving pollution by hazardous and noxious cargoes transported by sea.

Since the adoption of the original Convention a number of circumstances preventing States from ratifying HNS-1996 Convention became evident; e.g. in April 2010, only 14 States members of the Organization ratified it (the Russian Federation expressed its consent to be bound by the requirements of that Convention by the procedure of acceding thereto; ref. Federal Law of the Russian Federation No. 17-FL of 2 January 2000). The Protocol of 2010 adopted by the Conference by consensus is intended to remove the said difficulties.

In particular, they were due to uncertainty in the limit of shipowner's liability when carrying packaged HNS. The maximum liability of the shipowner for a damage following an incident involving pollution by packaged HNS, or by HNS in both packaged form and in bulk, will amount to 115 million Special Drawing Rights (SDR, see e.g. <http://investor.dp.ru/currencies/XDR> as a reference) , being units of account in terms of the Convention and its Protocol.

The maximum shipowner's liability for damage caused by HNS carried in bulk will be subject to a maximum limit of 100 million SDR.

Should the extent of damage exceed the limits mentioned, then compensation will be paid from the special HNS Fund, in which case the maximum amount of the recovery will be 250 million SDR, including compensation to be sought from the shipowner, as referred to above.

The Fund will be governed by an Assembly consisting of representatives of the Parties to the Convention and its Protocol. Assemblies will be convened once a year or, whenever appropriate, more frequently in a form of extraordinary meetings. The day-to-day activity of the Fund will be backed by a permanent Secretariat and Director to be appointed by the Assembly.

The Conference agreed that the Protocol will enter into force eighteen months after the date on which at least 12 States, including four States controlling their ships with an aggregate gross tonnage of 2 million each, have expressed their consent to be bound by it, and upon complying with a condition on the amount of HNS cargoes carried, which will afterwards serve as a basis for contribution to the Fund, as this is stipulated in Article

21.1(b) of the Protocol. The IMO Secretary-General Admiral E. Mitropoulos expressed his satisfaction with the outcome of the Conference and urged member States to ratify the 2010 Protocol at an earliest possible date.