



HAZARDOUS AND NOXIOUS SUBSTANCES

The shipping industry¹ urges Member States to ratify or accede to the Protocol of 2010 to the HNS Convention soonest in line with the Commission's proposed approach

The shipping industry is aware of ongoing discussions amongst Member States regarding a Commission proposal for a Council decision inviting Member States to ratify or accede to the Protocol of 2010 to the HNS Convention².

The shipping industry urges Member States to ratify or accede to the Protocol of 2010 to the HNS Convention soonest, as proposed by the European Commission in its original proposal for a Council decision. The reasons are as follows:

1. A speedy ratification of or accession to the Protocol of 2010 to the HNS Convention will establish an international regime for HNS damage³, which will provide victims (claimants) of HNS damages with compensation on a very high level (i.e. 350 million USD / 310 million Euros per incident).
2. Such ratification or accession will also create a regime of strict liability for the carrier, establish a regime of compulsory insurance as well as direct action against the carrier's insurer.
3. Furthermore, the regime will ensure that the costs are shared between shipowners and HNS cargo receivers.
4. The failure to enter into force is an important gap in the current successful and effective IMO framework of liability and compensation for pollution damages.
5. Until the HNS Convention enters into force, environmental damages from HNS incidents will be governed according to the provisions laid down in EU Directive 2004/35/EC on Environmental Liability for Preventing and Remedying Environmental Damage. The Directive does not provide victims / claimants with the same benefits as would be the case under the Convention itself.

¹ The shipping industry in the underlying paper is composed of the European Community Shipowners' Associations (ECESA), the International Chamber of Shipping (ICS) and BIMCO.

² The International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 has been amended by a Protocol of 2010. The two instruments are to be interpreted as one single instrument as between the parties to the Protocol of 2010. Once the Protocol of 2010 enters into force, the 1996 Convention, as amended by the Protocol, will be called: "the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 2010".

³ Pollution damage from hazardous and noxious substances carried by ships, as well as the risks of fire and explosion, including loss of life, personal injury, and loss of or damage to property.



The shipping industry, as a result of incidents involving damages and/or ship-source pollution over the years and of subsequent developments with regard to the regulatory framework, is today subject to strict legislation both in the IMO and the EU, including strict liability with higher liability limits.

The shipping industry firmly believes that the moment has come for States, including EU Member States, to take up their responsibility and therefore calls upon all EU Member States to make a firm commitment – as opposed to a loose recommendation – in favour of a speedy ratification of or accession to the Protocol of 2010 to the HNS Convention, preferably no later than two years from the date of entry into force of the Council Decision or at the very latest no later than four years from this date.

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