International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances by Sea with regard to aspects related to judicial cooperation in civil matters; Protocol of 2010: ratification and accession by Member States

2015/0136(NLE) - 08/12/2015 - Legislative proposal

PURPOSE: to authorise Member States to ratify the Protocol of 2010 to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, with regard to the aspects related to judicial cooperation in civil matters.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND : the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 ('1996 HNS Convention') aims to ensure adequate, prompt and effective compensation of persons who suffer damage caused by spills of hazardous and noxious substances, when carried by sea.

The 1996 HNS Convention has been amended by the Protocol of 2010. A text consolidating the 1996 HNS Convention and the Protocol of 2010 ('2010 HNS Convention') was prepared by the International Maritime Organization ('IMO') Secretariat and approved by the IMO Legal Committee. The 2010 HNS Convention will take effect once the Protocol of 2010 enters into force in Member States.

The 2010 HNS Convention provides for improved protection of the victims of damage in connection with the carriage of HNS by sea, including in the context of environmental damage, in line with the 1982 United Nations Convention on the Law of the Sea.

The Union therefore has **exclusive competence** in relation to Articles 38, 39 and 40 of the 2010 HNS Convention inasmuch as that Convention affects the rules laid down in Regulation (EU) No 1215/2012 of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters

In order for States to become Contracting Parties to the Protocol of 2010, and thereby to the 2010 HNS Convention, they have to submit to the Secretary-General of the IMO, at the same time as their instrument of consent, relevant data on the **total quantities of contributing cargo** under the 2010 HNS Convention during the preceding calendar year.

At its 100th meeting in 2013, the IMO Legal Committee endorsed Guidelines on the reporting of HNS contributing cargo.

CONTENT: by this draft Decision, Member States would be authorised to ratify or accede to, as appropriate, the Protocol of 2010 in the interest of the Union with regard to the aspects related to judicial cooperation in civil matters for which the Union has exclusive competence, subject to the conditions laid down in this Decision.

Member States should:

- endeavour to take the necessary steps to deposit the instruments of ratification of, or accession to, the Protocol of 2010 within a reasonable time and, **if possible, within four years after the date of entry into force of the Decision;**
- inform each other and the Council and the Commission in an appropriate manner when the **system for the reporting of HNS contributing cargo** becomes operational;
- seek to **exchange best practices**, in particular on the system for the reporting of HNS contributing cargo under the Protocol of 2010.

The United Kingdom and Ireland are bound by Regulation (EU) No 1215/2012 and are therefore taking part in the adoption and application of this Decision. On the other hand, **Denmark** is not taking part in it.

It should be noted a draft decision presented in parallel to this one aims to ratify the 2010 Protocol, with the exception of the aspects related to judicial cooperation in civil matters.