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

2015/0135(NLE) - 25/04/2017 - Final act

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 the exception of the aspects related to judicial cooperation in civil matters.

NON LEGISLATIVE ACT: Council Decision (EU) 2017/769 on the ratification and accession by Member States, in the interest of the European Union, to 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 the exception of the aspects related to judicial cooperation in civil matters.

CONTENT: the Decision authorises Member States, for the parts falling under the exclusive competence of the Union, to **ratify or accede to, as appropriate, the Protocol of 2010** to the 1996 International Convention on liability and compensation for damage in connection with the carriage of hazardous and noxious substances by sea ('1996 HNS Convention'), with the exception of the aspects related to judicial cooperation in civil matters, in the interest of the Union, and subject to the conditions laid down in the Decision.

The 2010 HNS Convention aims to make it possible for **compensation to be paid to victims of accidents involving hazardous and noxious substances**, such as chemicals, including in the context of environmental damage, in line with the 1982 United Nations Convention on the Law of the Sea. The 1996 HNS Convention has not entered into force due to an insufficient number of ratifications.

As parts of the Protocol fall under the **EU's exclusive competence** in the area of maritime transport, member States need to be authorised to be able to ratify or accede to it.

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 at its 98th meeting.

Ratification instruments: the Decision provides that Member States shall 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, **by 6 May 2021**.

Data on contributing cargo: 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. For that purpose, States are required to set

up a system for the reporting of HNS contributing cargo prior to expressing their consent to be bound by the Protocol of 2010.

The Council Decision provides that Member States shall:

- **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.

It should be noted that the provisions of the 2010 HNS Convention relating to the Union's competence in civil matters is covered in a Decision adopted in parallel to this Decision.

ENTRY INTO FORCE: 5.5.2017.