Basic information

2015/0135(NLE) NLE - Non-legislative enactments	Procedure completed
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 See also 2001/0272(CNS) See also 2015/0136(NLE) **Subject** 3.20.03.01 Maritime safety 3.20.15.06 Maritime or inland transport agreements and cooperation 3.70.05 Marine and coastal pollution, pollution from ships, oil pollution 3.70.16 Law and environment, liability	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	SVOBODA Pavel (PPE)	13/07/2015
	Shadow rapporteur ROZIÈRE Virginie (S&D) DZHAMBAZKI Angel (ECR) CAVADA Jean-Marie (ALDE)	

Former committee responsible	Former rapporteur	Appointed
JURI Legal Affairs	SVOBODA Pavel (PPE)	13/07/2015

Former committee for opinion	Former rapporteur for opinion	Appointed
ENVI Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
TRAN Transport and Tourism	The committee decided not to give an opinion.	
PECH Fisheries	The committee decided not to give an opinion.	

Former committee for opinion on the legal basis	Former rapporteur for opinion	Appointed
JURI Legal Affairs	VOSS Axel (PPE)	28/01/2016

Council of the European Union

Council configuration	Meetings	Date
General Affairs	3531	2017-04-25
Transport, Telecommunications and Energy	3436	2015-12-14

European Commission

Commission DG	Commissioner
Mobility and Transport	BULC Violeta

Key events

Date	Event	Reference	Summary
22/06/2015	Preparatory document	COM(2015)0304	Summary
01/12/2015	Legislative proposal published	13806/2015	Summary
14/12/2015	Act adopted by Council after consultation of Parliament		
18/01/2016	Committee referral announced in Parliament		
24/05/2016	Vote in committee		
30/05/2016	Committee interim report tabled for plenary	A8-0191/2016	Summary
08/06/2016	Decision by Parliament	T8-0259/2016	Summary
08/06/2016	Results of vote in Parliament		
23/03/2017	Vote in committee		
27/03/2017	Committee report tabled for plenary, 1st reading/single reading	A8-0076/2017	Summary
05/04/2017	Decision by Parliament	T8-0104/2017	Summary
05/04/2017	Results of vote in Parliament		
25/04/2017	Act adopted by Council after consultation of Parliament		
25/04/2017	End of procedure in Parliament		
04/05/2017	Final act published in Official Journal		

Technical information

Procedure reference	2015/0135(NLE)
Procedure type	NLE - Non-legislative enactments
Procedure subtype	Consent by Parliament

Amendments and repeals	See also 2001/0272(CNS) See also 2015/0136(NLE)
Legal basis	Treaty on the Functioning of the European Union TFEU 218-p6a Treaty on the Functioning of the European Union TFEU 192-p1
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	JURI/8/06676 JURI/8/03761

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Specific opinion	JURI	PE576.992	19/02/2016	
Committee draft report		PE580.550	05/04/2016	
Amendments tabled in committee		PE582.120	29/04/2016	
Committee interim report tabled for plenary		A8-0191/2016	30/05/2016	Summary
Interim resolution adopted by Parliament		T8-0259/2016	08/06/2016	Summary
Committee draft report		PE597.651	03/02/2017	
Committee report tabled for plenary, 1st reading/single reading		A8-0076/2017	27/03/2017	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0104/2017	05/04/2017	Summary

Council of the EU

Document type	Reference	Date	Summary
Legislative proposal	13806/2015	01/12/2015	Summary

European Commission

Document type	Reference	Date	Summary
Preparatory document	COM(2015)0304	22/06/2015	Summary
Commission response to text adopted in plenary	SP(2016)612	18/11/2016	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Decision 2017/0769
OJ L 115 04.05.2017, p. 0015

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.

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) - 30/05/2016 - Committee interim report tabled for plenary

The Committee on Legal Affairs adopted the interim report by Pavel SVOBODA (EPP, CZ) on the draft Council decision 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.

Parliament received a letter requesting it to give its consent to the draft Council decision on the ratification and accession by Member States on behalf of the Union to the 2010 Protocol to the HNS Convention on 17 December 2015.

With this interim report, Members seek to ensure that the Parliament works towards a positive outcome with the Council and the Commission on this issue.

The committee asked the Council and the Commission to take into account the following recommendations:

- guarantee **respect for the principle of conferral of Union competences** under Article 5(1) TEU and the settled case law of the Court of Justice;
- ensure that the uniformity, integrity and effectiveness of common Union rules will not be adversely affected by the international commitments undertaken by the ratification of or accession to the 2010 HNS Convention;
- pay increased attention in this regard to the **overlap** between the Environmental Liability Directive and the 2010 HNS Convention in so far as environmental damage caused to the territory and marine waters under the jurisdiction of a state party, damage by contamination of the environment caused in the EEZ or equivalent area (up to 200 nautical miles from baselines) of a state party and preventive measures to prevent or minimise such damage (preventive measures, primary remediation, and complementary remediation) are concerned;
- reduce the risk of creating and consolidating a competitive disadvantage for the states that are ready to accede to the 2010 HNS Convention;
- ensure the **removal of the permanent co-existence of two maritime liability regimes** - a Union-based one and an international one;
- ensure that a clear obligation is imposed on Member States to take all necessary steps to achieve a concrete result, namely to ratify or accede to the 2010 HNS Convention within a reasonable timeframe, which should be no longer than **two years** from the date of entry into force of the Council decision.

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) - 27/03/2017 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Legal Affairs adopted the report by Pavel SVOBODA (EPP, CZ) on the draft Council decision 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 aspects related to judicial cooperation in civil matters.

The committee recommended the European Parliament to **give its consent** to 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.

In a short justification accompanying the draft recommendation, it was recalled that in view of the substantial discrepancies between the draft Council decision and the original proposal, the European Parliament adopted, on 8 June 2016, an **interim resolution** with recommendations for modification of the said draft Council Decision. The aim being to work towards a positive outcome with the Council and the Commission that would ensure the uniformity, integrity and effectiveness of Union law as well as the fundamental principle of conferral of EU competences.

The **main discrepancies** between the draft Council decision and the Commission proposal concerned in particular:

- the extent of exclusive Union competence pursuant to Article 3(2) TFEU;
- the appropriate legal basis for the Council Decision excluding civil justice cooperation matters, namely either Article 192 TFEU, the main provision on environmental liability, or Article 100(2), a transport provision, in conjunction with Article 218(6) TFEU;
- the overlap between the 2010 HNS Convention on the one hand and the Environmental Liability Directive (“ELD”) on the other hand;
- the lack, in the draft Council decision, of binding timeframes and clear obligations for Member States to ratify or accede to the Convention.

The Committee on Legal Affairs considered of its own motion the change in the legal basis of the draft Council Decision excluding matters of civil justice cooperation and concluded that a triple legal basis (Articles 100(2), 192(1) and 218(6)(a)(v) of the TFEU) was the most appropriate solution.

The Commission welcomed the adoption by Parliament of this resolution and confirmed that it would have been ready to accept a compromise solution on the legal basis of the proposal and an extended reasonable timeframe for ratification of the 2010 HNS Convention. The Council took note of Parliament’s resolution but found that there was **no scope to reopen the discussion** on the text of the draft Council Decision, since it fell under the consent and not the co-decision procedure.

In view of the need to promote an international regime to ensure the uniform application of rules on liability and compensation in connection with accidents caused by ships carrying HNS at sea across the EU, the rapporteur recommended that Parliament consent to the ratification and accession by Member States to the Protocol of 2010 to the HNS Convention.

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) - 05/04/2017 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 598 votes to 35, with 59 abstentions, a legislative resolution on the draft Council decision 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 aspects related to judicial cooperation in civil matters.

In line with its Committee on Legal Affairs, Parliament gave its consent to 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.

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) - 01/12/2015 - 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 the exception of the aspects related to judicial cooperation in civil matters.

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.

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, for the parts falling under the exclusive competence of the Union, to **ratify or accede to, as appropriate, the Protocol of 2010** in the interest of the Union, with the exception of the aspects related to judicial cooperation in civil matters, and subject to the conditions laid down in the 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.

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.

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) - 22/06/2015 - Preparatory document

PURPOSE: i) ratification by Member States on behalf of the 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 ii) accession by Member States to the said Protocol with the exception of 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 adoption and entry into force of international rules on liability for non-contractual damages arising from the carriage of hazardous and noxious substances (HNS) by sea is crucial in view of the significant share HNS cargo represents in maritime freight transport worldwide.

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

The Protocol of 2010 to the 1996 HNS Convention contained necessary amendments to address problems identified in the 1996 HNS Convention. The 2010 Protocol and the provisions of the Convention, are to be read, interpreted and applied together as one single instrument.

Neither the 1996 HNS Convention, nor the 2010 Protocol to the HNS Convention has entered into force. The latter has no contracting parties to it to this day.

The 2010 Protocol, and thereby the consolidated 2010 HNS Convention, will enter into force 18 months after the date on which at least 12 States, 4 of which with no less than 2 million units of gross tonnage each, have ratified it, and the relevant data on contributing cargo have been submitted to the IMO Secretary-General showing no less than 40 million tonnes of cargo contributing to the general HNS account received in total in those States during the preceding calendar year.

The **main changes from the 1996 HNS Convention to the 2010 HNS Convention** are:

- excluding packaged HNS from the definition of contributing cargo to the HNS Fund, while damage caused by packaged HNS remains covered by the two-tier system of compensation established in the Convention;
- increasing the liability limits of the ship owner for ships carrying packaged HNS in order to accommodate better the exclusion of packaged HNS as contributing cargo to the HNS Fund;
- making the physical receiver of LNG the responsible party for payment of the relevant contributions to the HNS Fund, unless there is a different agreement between the titleholder and the receiver;
- making payment of compensation by the HNS Fund in case of a covered incident conditional upon the fulfilment by the State concerned of its obligation to submit reports on contributing cargoes for all years prior to the incident

Given that issues related to judicial to judicial cooperation in civil matters do not apply to Denmark, the Council must adopt two separate decisions.

IMPACT ASSESSMENT: whilst no formal impact assessment was required, several options have been examined and weighed. The Commission considers that the conclusion of the 2010 Protocol to the HNS Convention will ensure:

- uniform application of rules on liability and compensation in connection with accidents caused by ships carrying HNS at sea across the EU;
- availability of sufficient funds for compensation of victims of such accidents.

Using an international regime rather than regional solutions for these purposes better suits the nature of shipping as a global business.

CONTENT: under the draft Council Decision, Member States would:

- be authorised **to ratify the Protocol of 2010 with the exception of aspects related to judicial cooperation in civil matters.** The provisions of the Convention falling within the competence conferred upon the Union under judicial cooperation in civil matters will be subject to a Decision adopted in parallel to this Decision;
- **agree to be bound by the 2010 Protocol within two-year period from the entry into force of the Decision**. Early adherence to the 2010 Protocol by all EU Member States will allow the threshold for entry into force concerning both the number of IMO Member States and aggregate fleet required (12 States including 4 with not less than 2 million units of gross tonnage each) to be attained.

State signature, ratification or acceptance of the 2010 Protocol nullifies any prior signature or ratification by that State of the 1996 HNS Convention. States ratifying the Protocol express their consent to be bound by the consolidated text of the 2010 HNS Convention, as a single, consolidated instrument for the Convention, which will take effect once the 2010 Protocol enters into force.

When ratifying or acceding to the Protocol of 2010, Member States must inform the Secretary-General of the International Maritime Organisation in writing that such ratification or accession has taken place in accordance with this Decision and the Decision adopted parallel to this Decision with regard to aspects falling within the competence conferred upon the Union in the field of judicial cooperation in civil matters.

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) - 22/06/2015

PURPOSE: i) ratification by Member States on behalf of the 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 ii) accession by Member States to the said Protocol with the exception of 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 adoption and entry into force of international rules on liability for non-contractual damages arising from the carriage of hazardous and noxious substances (HNS) by sea is crucial in view of the significant share HNS cargo represents in maritime freight transport worldwide.

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

The Protocol of 2010 to the 1996 HNS Convention contained necessary amendments to address problems identified in the 1996 HNS Convention. The 2010 Protocol and the provisions of the Convention, are to be read, interpreted and applied together as one single instrument.

Neither the 1996 HNS Convention, nor the 2010 Protocol to the HNS Convention has entered into force. The latter has no contracting parties to it to this day.

The 2010 Protocol, and thereby the consolidated 2010 HNS Convention, will enter into force 18 months after the date on which at least 12 States, 4 of which with no less than 2 million units of gross tonnage each, have ratified it, and the relevant data on contributing cargo have been submitted to the IMO Secretary-General showing no less than 40 million tonnes of cargo contributing to the general HNS account received in total in those States during the preceding calendar year.

The **main changes from the 1996 HNS Convention to the 2010 HNS Convention** are:

- excluding packaged HNS from the definition of contributing cargo to the HNS Fund, while damage caused by packaged HNS remains covered by the two-tier system of compensation established in the Convention;
- increasing the liability limits of the ship owner for ships carrying packaged HNS in order to accommodate better the exclusion of packaged HNS as contributing cargo to the HNS Fund;
- making the physical receiver of LNG the responsible party for payment of the relevant contributions to the HNS Fund, unless there is a different agreement between the titleholder and the receiver;
- making payment of compensation by the HNS Fund in case of a covered incident conditional upon the fulfilment by the State concerned of its obligation to submit reports on contributing cargoes for all years prior to the incident

Given that issues related to judicial to judicial cooperation in civil matters do not apply to Denmark, the Council must adopt two separate decisions.

IMPACT ASSESSMENT: whilst no formal impact assessment was required, several options have been examined and weighed. The Commission considers that the conclusion of the 2010 Protocol to the HNS Convention will ensure:

- uniform application of rules on liability and compensation in connection with accidents caused by ships carrying HNS at sea across the EU;
- availability of sufficient funds for compensation of victims of such accidents.

Using an international regime rather than regional solutions for these purposes better suits the nature of shipping as a global business.

CONTENT: under the draft Council Decision, Member States would:

- be authorised **to ratify the Protocol of 2010 with the exception of aspects related to judicial cooperation in civil matters.** The provisions of the Convention falling within the competence conferred upon the Union under judicial cooperation in civil matters will be subject to a Decision adopted in parallel to this Decision;
- **agree to be bound by the 2010 Protocol within two-year period from the entry into force of the Decision**. Early adherence to the 2010 Protocol by all EU Member States will allow the threshold for entry into force concerning both the number of IMO Member States and aggregate fleet required (12 States including 4 with not less than 2 million units of gross tonnage each) to be attained.

State signature, ratification or acceptance of the 2010 Protocol nullifies any prior signature or ratification by that State of the 1996 HNS Convention. States ratifying the Protocol express their consent to be bound by the consolidated text of the 2010 HNS Convention, as a single, consolidated instrument for the Convention, which will take effect once the 2010 Protocol enters into force.

When ratifying or acceding to the Protocol of 2010, Member States must inform the Secretary-General of the International Maritime Organisation in writing that such ratification or accession has taken place in accordance with this Decision and the Decision adopted parallel to this Decision with regard to aspects falling within the competence conferred upon the Union in the field of judicial cooperation in civil matters.

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) - 08/06/2016 - Interim resolution adopted by Parliament

The European Parliament adopted by 640 votes to 8, with 33 abstentions, a resolution on the draft Council decision 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.

To recall, the aim of the 2010 HNS Convention is to ensure accountability and the payment of adequate, prompt and effective compensation for loss or damage to persons, property and the environment arising from the carriage of hazardous and noxious substances by sea through the specialised International HNS compensation Fund.

Based on the interim report presented by the Committee on Legal Affairs, Parliament called on the Council and the Commission to take into consideration the following recommendations:

- guarantee **respect for the principle of conferral of Union competences** under Article 5(1) TEU and the settled case law of the Court of Justice which provides that ‘the choice of legal basis for a Community measure must rest on objective factors amenable to judicial review, including in particular the aim and the content of the measure’;
- embrace the opinion in letter form of 19 February 2016 adopted by the Committee on Legal Affairs according to which **Articles 100(2), 192(1) and 218(6)(a)(v) TFEU** constitute the appropriate legal bases for the proposal;
- ensure that the uniformity, integrity and effectiveness of common Union rules will not be adversely affected by the international commitments undertaken by the ratification of or accession to the 2010 HNS Convention;
- pay increased attention in this regard to the **overlap** between the Environmental Liability Directive and the 2010 HNS Convention in so far as environmental damage caused to the territory and marine waters under the jurisdiction of a state party, damage by contamination of the environment caused in the EEZ or equivalent area (up to 200 nautical miles from baselines) of a state party and preventive measures to prevent or minimise such damage (preventive measures, primary remediation, and complementary remediation) are concerned;
- reduce the risk of creating and consolidating a competitive disadvantage for the states that are ready to accede to the 2010 HNS Convention;
- ensure that the possibility for a **conflict** between the Environmental Liability Directive and the 2010 HNS Convention is minimised;
- ensure the **removal of the permanent co-existence of two maritime liability regimes** - a Union-based one and an international one;
- ensure that a clear obligation is imposed on Member States to take all necessary steps to achieve a concrete result, namely to ratify or accede to the 2010 HNS Convention within a reasonable timeframe, which should be no longer than **two years** from the date of entry into force of the Council decision.

Parliament concluded that this resolution would be a further possibility for the Council and the Commission to address the recommendations set out above.