

Delegates confident of fixing hazardous treaty

Erik Røsæg - Wednesday 24 October 2007

MORE than 30 delegations in London last week committed themselves to work actively to fix the Hazardous and Noxious Substances convention so that it can be ratified soon.

Jerry Rysanek of Canada, who chaired the debate in the International Oil Fund, described the debate as the most significant development since the 1996 Diplomatic Conference. A new, optimistic atmosphere has emerged, he said.

It is now hoped that the international liability regime for hazardous cargoes at sea could enter into force within this decade, making any EC regional regime redundant.

To date, only a handful of states have ratified the treaty. Although EU member states are expected to ratify pursuant to a Council decision, only a few have done so.

The problems that need to be fixed are very limited. The problems identified all relate to the international compensation fund that is financed by levies on discharged cargo. Would all governments report all cargo received in their jurisdiction, and could one ensure that the levies on cargo are collectable?

The issues are partly due to developments after the 1996 Convention, such as the globalisation of LNG trade, and partly due to new government demands.

Some delegations fear that these issues are only forerunners for a more massive attack on the system for collecting cargo levies to the extent that the international compensation fund is more or less abolished.

In my view, it is difficult to see how International Maritime Organisation could maintain any credibility in the field of liability conventions should such an attack succeed.

This is certainly so if the attack is based on distrust in the will and ability of other states to fulfil their obligations.

And it would be equally bad if the attack would be based on the view that the international fund system maintained for oil since 1971 would not be adequate for HNS, contrary to what was thought in 1996.

Despite repeated reassurances by states to the contrary, other issues will perhaps be raised when the revision process gets going. The temptation for some states to get some benefits they did not get in 1996 may be difficult to resist.

In particular this is so as many delegations have accepted to use an amendment protocol to do the fixes.

But there are leaders within the International Oil Fund system that could successfully master the difficult task of focusing the minds.

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