

More time needed on draft HNS protocol

Sandra Speares - Tuesday 4 November 2008

INTERNATIONAL Maritime Organization member states have asked for additional time to consider a draft protocol to the Hazardous and Noxious Substances Convention, but this should not substantially delay a diplomatic conference to discuss the issue, writes Sandra Speares.

The protocol was put forward at the latest meeting of the IMO Legal Committee with a view to ironing out difficulties that a number of member states had in ratifying the convention.

The majority of delegations present at the deliberations in London agreed that a draft protocol needed to be adopted as soon as possible, although some delegations expressed concerns that they had not had sufficient time to consider the draft, or had difficulties with the concept of a protocol when they had already become contracting parties to the original 1996 HNS Convention.

There were four areas for discussion at the Legal Committee sessions, notably the concept of receiver under the convention, contributions to the LNG account, reporting requirements and definitions. The delegation from Ghana told the committee that the draft protocol was in fact a freestanding convention that complemented the existing HNS convention. The two instruments, taken together, would provide a workable solution to the problems of implementation that many states had experienced.

One of the issues preventing states from becoming parties to the HNS convention was that of collecting data and reporting on packaged HNS.

A set of proposals was presented by the IOPC Funds in an attempt to find a compromise solution. The result was that packaged HNS should not contribute to the fund, but damages caused by packaged HNS would still be covered by it.

The proposal involved the possibility of increasing liability limits for the owner in cases where damage was caused by packaged HNS, by both bulk and packaged HNS or where it was impossible to establish whether bulk or packaged HNS had caused the damage.

Most delegations were prepared to accept an increase in shipowner liability for packaged HNS provided this was moderate, and the principle of shared liability between owners and cargo interests was maintained.

The Legal Committee adopted the proposals.

One of the main areas of contention has been contributions to the LNG account, and a compromise solution was put forward by 12 delegations. It was proposed that the person liable for contributions would normally be the receiver except if, by agreement between the titleholder and receiver, the titleholder became liable. If the titleholder defaulted, the liability would revert to the receiver.

Most delegations were in favour of the compromise solution.

Article from Lloyd's List:

www.lloydslist.com/art/1225729774181

Published: 4/11/2008 GMT

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