

Growing momentum for HNS clamp

Lawmakers are keeping a wary eye on chemicals shipped in bulk, many of which are far more toxic than crude oil. A system that would provide almost automatic compensation for spills may soon come off the shelf, writes Lee Coppack

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AROUND 7,000 chemicals are transported in bulk by sea: more if the list includes package shipments. A number of these substances are highly toxic, and public sensitivity to the risks is growing.

The collision of the tanker Vicky, laden with 70,000 tonnes of kerosene, with the wreck of the Tricolor in the Channel off France on New Year's Day shows how easily a major chemical spill could occur.

This year is expected to bring increasing pressure for states to accede to the International Convention on the Carriage of Hazardous and Noxious Substances by Sea (HNS Convention). Only two countries have done so to date, Russia and Angola, despite adoption of the final text by the International Maritime Organisation in 1996. The convention will only come into effect 18 months after 12 countries have ratified.

Until then, local law where the spill occurs will continue to determine the shipowner's liability for injuries or damages. If the country is a party to the 1976 Convention on Limitation of Liability for Marine Claims, the shipowner will be entitled to limitation of liability, absent "wilful misconduct". These limits are derisory, says Ray Grainger, a consultant and leader of the European Chemical Industries (Cefic) delegation to IMO. In a major incident, he says, they would result in a big shortfall in compensation, and one of the shippers' priorities is for a realistic increase in these limits.

Modelled on the international regime for oil pollution compensation, the HNS Convention channels liability to the registered owner of the ship and updates the limitation levels. In addition, it would create a fund paid by importers of HNS commodities, to respond to claims exceeding the shipowner's limit of liability. The two elements would provide up to SDR250m (\$331m) insurance for shipowners and would be compulsory, which the International Group of P&I Clubs has not treated as an issue. Shippers welcome this provision, says Mr Grainger.

Industry representatives and interested states will meet from June 2-5, 2003, in Ottawa to review the issues involved in implementing the convention. A correspondence group of the IMO legal committee, led by the United Kingdom, has been working to resolve the practical obstacles, and it expects to complete the bulk of its work in time for this meeting.

Despite reaction to the sinking of the tanker Prestige off Spain in November, the number of oil pollution incidents has been falling, according to the International Tanker Owners Pollution Federation (Itoptf). In the mid-1970s, there was an average of 24.2 'bigish' events a year, says managing director Ian White. Between 1990 and 1999, the number fell to an average of 7.3 a year, and since then there have been only three or four events each year. Before the Prestige in December 2002, the last major oil spill was the Erika, which broke up and polluted the coast of Brittany in December 1999.

Few incidents involving HNS substances like liquefied natural gas or toxic chemicals have provoked the lasting emotional impact of tanker spills, but public sensitivity to the risks is growing, with implications for insurers. "The numbers are not increasing," says Dr White, "but sensitivity is." Increased sensitivity to environmental disturbance translates into bigger claims, he adds. Itoptf is increasingly asked to give advice on the threat posed by a number of chemicals and substances other than oil.

In October 2000, the Ievoli Sun sank while under tow off the Channel Island. The ship was carrying 3,998 tonnes of styrene, a known carcinogen, owned by Shell, plus smaller amounts of other chemicals. The accident provoked an outcry in France. Three hundred volunteers from ornithological and nature protection organisations turned out to inspect the sea coasts. Greenpeace France angrily called for the European Union to strengthen port inspections and regulate classification societies.

The non-profit French pollution research organisation Cedre commented: "A year after the Erika, the accident of the Ievoli Sun is there to remind us that oil pollution from tankers is not the only danger which threatens our coasts. In terms of human safety from maritime pollution, chemical transports are significantly more dangerous because of the products they carry, not forgetting the bunker fuel.

"In addition, this accident has shown once again the limits of our understanding of the substances: their behaviour when dispersed in sea water or retained in tanks in sunken ships and their potential impact on marine life."

Ultimately, according to Shell, only a small amount of styrene, which is biodegradable, was detected in the sea water, and the chemical was removed and reprocessed within six months. Other incidents have also ended with little environmental damage fortunately. A report prepared for the IMO legal committee by the UK Department of Transport states that in August 1999, the container vessel Ever Decent, which was carrying hazardous and noxious substances

including cyanide, was involved in a collision off the southeast coast of England with Norwegian Dream, a cruiseship carrying 1,750 passengers and 638 crew. Both vessels were seriously damaged.

Listing badly after the collision, the Ever Decent lost some containers overboard, and others on deck caught fire with the risk of both explosion and toxic pollution. Fortunately, the missing containers were eventually confirmed to contain non-hazardous substances, and after surveys, the vessel was found fit to sail to Zeebrugge for repairs.

The DoT said: "Whilst very few people were injured in the incident, particularly given the scale, it was potentially, a catastrophic event involving the carriage of HNS that could have resulted in serious injuries or loss of life to a number of passengers/crew."

Without incidents creating last public outrage, other political and practical considerations have delayed accession to the HNS Convention, according to a spokesman for the DoT. Countries that import significant amounts of HNS cargo fear their industries will have to pay a disproportionate amount into the compensation fund for incidents elsewhere which would put them at a disadvantage to competitors. The UK is one of these countries, but is "keeping the issue under constant review". Recent work within the IMO correspondence group to identify likely levels of contributing cargoes suggests that this is not as great a risk as feared.

Another issue is the complexity of the HNS Convention because it covers a large number of substances and wider range of risks, such as fire and explosion, than the conventions governing compensation for oil pollution.

Within the European Union, says the DoT, reaction to incidents such as the Erika and Prestige have heightened awareness of the advantages that the HNS Convention would provide in case of a major incident, fire or explosion involving HNS products or substances. On December 6, 2002, the EU Transport Council agreed to encourage all member states to become parties to the HNS Convention as soon as possible.

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