



## STEAMSHIP MUTUAL

To the Members

August 2010

Dear Sirs,

**2010 PROTOCOL TO THE INTERNATIONAL CONVENTION ON LIABILITY AND COMPENSATION FOR DAMAGE IN CONNECTION WITH THE CARRIAGE OF HAZARDOUS AND NOXIOUS SUBSTANCES BY SEA, 1996.**

Members are advised that the 2010 Protocol to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996, aimed at bringing that Convention into effect, was adopted by consensus at a Diplomatic Conference convened by IMO in April 2010.

The original HNS Convention was adopted in 1996 but never gained sufficient support from Member States to bring it into force. The 2010 Protocol was developed with a view to overcoming some of the problems which had dissuaded many States from ratifying the original Convention.

This HNS Convention Protocol follows the well established principles contained in the Civil Liability Convention (CLC) and the Bunkers Convention and provides for a liability, compensation and compulsory insurance regime for the victims of damage caused by hazardous and noxious substances.

Under the Convention, the registered owner of a vessel will be strictly liable for damage caused by hazardous and noxious substances in connection with their carriage by sea on board the vessel, subject to very limited defences. Moreover, the owners of any vessel over 200GT registered in a State party will be required to maintain insurance which meets the requirements of the Convention and to obtain a certificate issued by a State party attesting that such insurance is in force. The State issued certificate must be carried on board at all times.

Hazardous and Noxious Substances (HNS) include, but are not limited to, oil, liquefied gases, liquid substances with a flashpoint not exceeding 60C, dangerous, hazardous and harmful materials and substances carried in bulk or packaged form. Members are directed to lists included in various IMO Conventions and Codes for a full definition of HNS.

The Convention defines damage as including loss of life or personal injury; loss of or damage to property outside the ship; loss or damage by contamination of the environment; the costs of preventative measures and further loss or damage caused by them.

Under the 2010 Protocol, a shipowner has a right to limit liability as a result of HNS damage, which limit varies depending upon the size of the vessel. The maximum liability for damage caused by the bulk carriage of HNS is 100 million Special Drawing Rights (SDR). Where the liability arises from the carriage of packaged HNS, or a combination of both packaged and bulk, then the maximum liability for the shipowner is 115 million SDRs.

In the event that such limits prove insufficient to cover all damage arising caused in connection with the carriage of HNS cargo, the level of compensation provided by the shipowner is supplemented by a second tier, known as the HNS Fund; financed by cargo interests. In such situations, compensation would be paid

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from this second tier, up to a maximum of 250 million SDR; including compensation which has already been paid under the first tier.

The HNS Fund will have a general account divided into various sectors, and further separate accounts in respect of Oil, Liquefied Natural Gases (LNG) and Liquefied Petroleum Gases (LPG). Cargo interests will have contributions to these various accounts levied upon them in the event that they receive a certain minimum quantity of the relevant type of HNS cargo during a calendar year..

This HNS Protocol will be open for signature in November 2010 and will enter into force eighteen months after the date on which the following conditions are fulfilled:

(a) at least twelve States, including four States each with not less than 2 million units of gross tonnage, have expressed their consent to be bound by it; and

(b) the Secretary-General has received information that those persons in such States who would be liable to contribute towards the Fund have received during the preceding calendar year a total quantity of at least 40 million tonnes of cargo contributing to the general account.

Yours faithfully,

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