



INCREASED LIABILITY LIMITS FOR MARITIME CLAIMS ADOPTED

On 19 April 2012, the Legal Committee of the IMO agreed to amend the 1996 Protocol (“Protocol”) to the 1976 Convention on Limitation of Liability for Maritime Claims (“LLMC”). The effect is to increase the applicable limits of liability.

The IMO explained that the increases have been adopted after taking into account the experience of claims over recent years, particularly bunker fuel spills, as well as inflation. The present Protocol limits have, in a number of incidents, been deemed to be inadequate.

Unless there are objections, the increased limits are expected to come into force on 19 April 2015. In England (and other jurisdictions), the limits under the amended Protocol will need to be enacted into local law to become effective.

Under the amendments to the Protocol, the

limit of liability for property claims for ships not exceeding 2,000 gross tonnage will be 1.51 million SDR’s¹ (up from 1 million SDR’s). For larger ships, the following additional amounts will be used in calculating the limitation amount:

- For each ton from 2,001 to 30,000 tons, 604 SDR’s (up from 400 SDR’s).
- For each ton from 30,001 to 70,000 tons, 453 SDR’s (up from 300 SDR’s).
- For each ton in excess of 70,000 tons, 302 SDR’s (up from 200 SDR’s).

A separate set of increased limits have been adopted for loss of life and personal injury claims.

Amendments to the Protocol were first proposed almost two years ago, following the “PACIFIC ADVENTURER” bunker oil pollution incident in 2009². At that time increases to

1. Special Drawing Rights (SDR’s) of the International Monetary Fund.
2. “PACIFIC ADVENTURER”, a general cargo vessel, lost containers overboard in rough weather off Australia during March 2009. The containers, as they fell, ruptured the vessel’s bunker tanks. Some 270 tons of heavy fuel oil were lost from the vessel, causing significant pollution. The clean up costs were much higher than the sum at which the owners of “PACIFIC ADVENTURER” were entitled to limit under the (present) Protocol.



previous limits of up to almost 140% were mooted (see our February 2011 Shipping Bulletin). The increase now adopted is comparatively modest at about 51%.

In practical terms, the new limits, if incorporated into English law, mean a Panamax bulker (assuming a GT of 40,000), which currently has a limitation fund for property claims of 15,200,000 SDR's will, from 19 April 2015, have an increased fund of 22,952,000 SDR's. This currently equates to an increase in the monetary property damage fund from about US\$23,484,000 to about US\$35,460,840.

A VLCC of 160,000 GT, with a current fund for property claims of 42,200,000 SDR's (currently equating to about US\$65,199,000), will have an increased fund of 63,722,000 SDR's (currently valued at about US\$98,450,490).

Breaking limits under the LLMC is very difficult. There are not understood to be any changes to the circumstances in which parties entitled to limit may break the limits of liability.

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